

Exhibit 1

August 3, 2017

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 307

HON. MAREN E. NELSON, JUDGE

COORDINATION PROCEEDING,)
SPECIAL TITLE (RULE 3.55))
JOHNSON & JOHNSON TALCUM) JCCP NO. 4872
POWDER CASES.)
_____)

AFTERNOON SESSION
REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
AUGUST 3, 2017

Reporter:

CAROLYN GREGOR, CSR, CM, RDR, CRR
Certificate No. 2351
Court Reporter Pro Tempore

August 3, 2017

<p style="text-align: center;">C H R O N O L O G I C A L I N D E X</p>				<p style="text-align: right;">Page 2021</p>	
<p>WITNESS DIRECT CROSS REDIRECT RECROSS VD</p>				<p>1 CASE NUMBER: JCCP 4872</p> <p>2 CASE NAME: JOHNSON & JOHNSON</p> <p>3 TALCUM POWDER CASES</p> <p>4 LOS ANGELES, CA AUGUST 3, 2017</p> <p>5 DEPARTMENT 307 HON. MAREN E. NELSON</p> <p>6 APPEARANCES: (AS HERETOFORE NOTED.)</p> <p>7 REPORTER: CAROLYN GREGOR, CSR 2351</p> <p>8 TIME: 1:41 P.M.</p> <p>9</p> <p>10 AFTERNOON SESSION</p> <p>11 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN</p> <p>12 COURT OUTSIDE THE PRESENCE OF THE JURY:)</p> <p>13 THE COURT: All right. Back on the record</p> <p>14 outside the presence of the jury. We've got something to</p> <p>15 be taken up?</p> <p>16 MS. PARFITT: We do, your Honor. The good news</p> <p>17 is we had the meet-and-confer, and they do work. But I</p> <p>18 just have a couple slides I anticipate using with --</p> <p>19 THE COURT: Counsel, may I have your appearance</p> <p>20 for the record.</p> <p>21 MS. PARFITT: Absolutely. I'm sorry, your</p> <p>22 Honor. Michelle Parfitt, counsel for the plaintiff.</p> <p>23 Good afternoon.</p> <p>24 THE COURT: Good afternoon. And your colleague?</p> <p>25 MS. NGUYEN: My name is Tram Nguyen.</p> <p>26 THE COURT: Thank you.</p> <p>27 MS. PARFITT: Thank you. Of the several slides</p> <p>28 that I plan to use with Dr. Siemiatycki, I think we've</p>	
<p style="text-align: center;">E X H I B I T S</p>				<p style="text-align: right;">Page 2022</p>	
NO.	DESCRIPTION	FOR I.D.	EVD.	<p>1 narrowed it down to just a handful. So if I may approach</p> <p>2 the Court, I'll hand you --</p> <p>3 Thank you. If we go, your Honor -- and</p> <p>4 Ms. Popkin is here as well. And so if I miss any, I'm</p> <p>5 sure you will correct me.</p> <p>6 MS. POPKIN: I will.</p> <p>7 MS. PARFITT: So we are on Slides 3 and 4. And,</p> <p>8 again, understand, your Honor, I intend to use these as</p> <p>9 purely demonstrative to be illustrative of his testimony.</p> <p>10 The slides that I'm referencing are entitled "Is</p> <p>11 Epidemiology Valid; Examples of Epidemiological</p> <p>12 Discoveries." And it is a list of two pages of different</p> <p>13 types of epidemiological discoveries.</p> <p>14 And the defendants have a different -- I guess</p> <p>15 are troubled by all but five of these. So that is where</p> <p>16 we have our disagreement. Because Dr. Siemiatycki didn't</p> <p>17 include specifically in his report alcohol, fluoride</p> <p>18 deficiency, smoking, contaminated water, and ionizing</p> <p>19 radiation, they have agreed to keep that in the slide.</p> <p>20 But because he didn't specifically address those by way</p> <p>21 of examples -- and again, understand, these are just</p> <p>22 examples of other types of discoveries.</p> <p>23 THE COURT: Putting aside what the discovery is,</p> <p>24 let me hear from Ms. Popkin.</p> <p>25 MS. POPKIN: Thank you, your Honor.</p> <p>26 Our problem with this slide is actually a</p> <p>27 problem with -- that we will run into as we go through a</p> <p>28 number of these, and that has to do with sourcing.</p>	
<p>FOR THE PLAINTIFF:</p>					
<p>GODLESKI, J. 2040 2053 page</p> <p>GODLESKI, J. 2067</p> <p>SIEMIATYCKI, J. 2073</p>					

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<p>1 As you'll see, there is no identification on the</p> <p>2 slide of the source of this information. And while we,</p> <p>3 on our own, have checked with what's in his report or</p> <p>4 tried to do our best to find out where this is, if at</p> <p>5 all -- and, indeed, I think Ms. Parfitt mentioned</p> <p>6 alcohol. That one we disagree with.</p> <p>7 But fluoride deficiency, smoking, contaminated</p> <p>8 water, ionizing radiation are specifically in his report</p> <p>9 as risk factors for the diseases on this slide. So to</p> <p>10 the extent that the plaintiff wants to modify the slide</p> <p>11 to just include those items, that is acceptable to us.</p> <p>12 Including these other examples which are not in</p> <p>13 his report, we don't think is appropriate. And that is</p> <p>14 because, in general, demonstrative evidence is as</p> <p>15 admissible as the underlying testimony. It would not be</p> <p>16 admissible for Dr. Siemiatycki to opine on these other</p> <p>17 items on this list. And, therefore, the demonstrative is</p> <p>18 not illustrative of his testimony. It's additional</p> <p>19 evidence that should not be permitted.</p> <p>20 MS. PARFITT: If I may, your Honor.</p> <p>21 Dr. Siemiatycki will be laying the foundation for this.</p> <p>22 It is a demonstrative. It is not evidence. We will be</p> <p>23 laying the foundation for this. And I would also say</p> <p>24 these are not risk factors.</p> <p>25 What these are, when he talks about how</p> <p>26 epidemiology has been used to actually discover diseases</p> <p>27 well before we have mechanism and that sort of thing.</p> <p>28 That's how he uses this.</p>	<p>1 that, your Honor, because he could. I need to be up</p> <p>2 front. He can certainly lay a foundation for every</p> <p>3 single one of these that he's been involved in.</p> <p>4 Your Honor is correct. I have no desire to</p> <p>5 belabor this either. I would like him to be able to make</p> <p>6 the point with a few examples how epidemiology, if we can</p> <p>7 use -- and it looks as though we've a substitute slide</p> <p>8 which counsel has agreed to. So...</p> <p>9 THE COURT: I would go to the substitute --</p> <p>10 MS. PARFITT: Okay.</p> <p>11 THE COURT: -- because otherwise you're going to</p> <p>12 be on a long road down to that point.</p> <p>13 MS. PARFITT: We can certainly live with that.</p> <p>14 THE COURT: All right. Next issue.</p> <p>15 MS. PARFITT: Very good. The next one is Slide</p> <p>16 Number 73.</p> <p>17 MS. POPKIN: Actually, I think 56.</p> <p>18 THE COURT: 56?</p> <p>19 MS. PARFITT: Yes, Slide 56. And, your Honor,</p> <p>20 the slide is entitled "Definitions of the Categories of</p> <p>21 Lifetime Applications." And this is data with regard to</p> <p>22 lifetime applications that was taken directly from the</p> <p>23 Terry study, the 2013 Terry study.</p> <p>24 I believe counsel's objection initially was</p> <p>25 where did it come from. We provided them with the study</p> <p>26 that the data comes from or is extrapolated from.</p> <p>27 They are free then to examine, cross-examine</p> <p>28 Dr. Siemiatycki on that. But as I appreciate counsel's</p>
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<p>1 THE COURT: So just to take an example, he would</p> <p>2 say something like, by way of comparing people that did</p> <p>3 smoke with people that didn't smoke, we learned that a</p> <p>4 statistically significant number of them developed</p> <p>5 cancer?</p> <p>6 MS. PARFITT: No, he wouldn't go that far. What</p> <p>7 he would say is, by using the field of epidemiology, the</p> <p>8 world has made great discoveries with epidemiology, well</p> <p>9 before science had evolved, perhaps from a mechanistic</p> <p>10 point of view.</p> <p>11 So he was just trying to illustrate how</p> <p>12 epidemiology is sometimes ahead of mechanism and some of</p> <p>13 the other totality of the evidence -- and that is all</p> <p>14 he's going to say. He'll be saying it for about a split</p> <p>15 second. But these were just examples of where</p> <p>16 epidemiology is really out ahead and has allowed us to,</p> <p>17 as human beings, to realize diseases we otherwise</p> <p>18 wouldn't have.</p> <p>19 THE COURT: So the problem I think that the</p> <p>20 defendant identifies, if I understand it correctly, is</p> <p>21 that, without identifying how it came to be -- for</p> <p>22 example, that the epidemiology on smoking was way out</p> <p>23 ahead of the determination that smoking causes cancer --</p> <p>24 there's no -- unless he can lay a foundation for each one</p> <p>25 of these, that becomes quite problematic. And frankly,</p> <p>26 you know, we could spend two days here if he's going to</p> <p>27 lay a foundation for each one of these.</p> <p>28 MS. PARFITT: Understood. And I do realize</p>	<p>1 objection initially, it was that they didn't know the</p> <p>2 source of it. And I certainly appreciate that. And we</p> <p>3 gave them sources.</p> <p>4 MS. POPKIN: So they gave us the source, which</p> <p>5 is adapted from Terry 2013. This particular information</p> <p>6 does not appear in the text of Terry 2013. And so we</p> <p>7 still don't actually have the source for it. And to the</p> <p>8 extent that it is based on some additional information</p> <p>9 that Dr. Siemiatycki has, we don't have it. And so it</p> <p>10 would be our position that it's still an objectionable</p> <p>11 slide.</p> <p>12 MS. PARFITT: Your Honor, if I may. When you</p> <p>13 look at the Terry study, when they talk about the -- the</p> <p>14 definitions of lower, low-medium, medium-high, and</p> <p>15 highest, it's somewhat -- it's difficult to explain.</p> <p>16 Dr. Siemiatycki plans on explaining it. And that's why</p> <p>17 he was using this as an illustrative tool. He will</p> <p>18 not -- we will not use this slide if we cannot lay the</p> <p>19 foundation for it.</p> <p>20 THE COURT: I can only say this: Without having</p> <p>21 looked at the Terry study, if it's discernible from the</p> <p>22 Terry study and it constitutes a summary of the data in</p> <p>23 the study that's tied back to the study, that's</p> <p>24 permissible under the evidence code as long as you have</p> <p>25 the raw data underneath it.</p> <p>26 MS. PARFITT: Correct.</p> <p>27 THE COURT: So if Dr. Siemiatycki can lay the</p> <p>28 foundation for it, then I think it's, you know,</p>

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<p>1 completely fine.</p> <p>2 MS. POPKIN: We would just ask to hold our</p> <p>3 objection to whether he's actually able to --</p> <p>4 THE COURT: And you understand summaries of</p> <p>5 complicated data are totally permissible under the</p> <p>6 Evidence Code.</p> <p>7 MS. POPKIN: We understand, your Honor. Our</p> <p>8 problem is if it is not actually data that can be</p> <p>9 extrapolated from the face of the study, then we, of</p> <p>10 course, don't think it's illustrative.</p> <p>11 THE COURT: Let's wait and see if the</p> <p>12 foundation --</p> <p>13 MS. PARFITT: That certainly is not my</p> <p>14 intention, your Honor.</p> <p>15 THE COURT: Next.</p> <p>16 MS. POPKIN: Sure. The next slide is 66. Or I</p> <p>17 think it's 66 in my version, which has for its header</p> <p>18 "Examples of the many discoveries in medical history that</p> <p>19 have been made without any understanding of the mechanism</p> <p>20 of action."</p> <p>21 Some of the examples on this page track the</p> <p>22 examples that Dr. Siemiatycki listed on pages 48 and 49</p> <p>23 of his report; some of them, however, do not.</p> <p>24 For example, 1990s excessive sunlight and</p> <p>25 melanoma is not something that appears within</p> <p>26 Dr. Siemiatycki's report.</p> <p>27 We also object to the 1960s to 1970s bullet</p> <p>28 point, both because it is not in his report and also</p>	<p>1 THE COURT: You know, I think you'll make the</p> <p>2 point anyway. I'd take the line out, unless you can come</p> <p>3 up with something specific that's not -- not --</p> <p>4 MS. PARFITT: I'll see. We won't get there for</p> <p>5 a little while. And if I can, I will. If not, I won't</p> <p>6 use it. Again, your Honor, these are not going to make</p> <p>7 or break what we're doing here.</p> <p>8 THE COURT: All right.</p> <p>9 MS. PARFITT: And with regard to the 1990s</p> <p>10 sunlight -- I had benzene.</p> <p>11 MR. ROBINSON: I was trying to give her another.</p> <p>12 MS. PARFITT: There you go. Thank you,</p> <p>13 Mr. Robinson. I appreciate it.</p> <p>14 THE COURT: I was trying to think of one.</p> <p>15 MS. PARFITT: That one's good. Thank you. And</p> <p>16 all help is appreciated, if you come up with any one</p> <p>17 before I use it.</p> <p>18 But the 1990s, your Honor, I -- he did not say</p> <p>19 that in his deposition or his report. I don't want to</p> <p>20 suggest that he has. You know, he didn't say -- these</p> <p>21 are examples of things happening. So I want the Court</p> <p>22 to -- I'm not representing that he did say that in his</p> <p>23 deposition or in his report.</p> <p>24 THE COURT: Hey, you know, I understand that.</p> <p>25 To simply give the example, I think, is not powerful. As</p> <p>26 I say, unless we're going to spend a lot of time on</p> <p>27 sunlight and melanoma --</p> <p>28 MS. PARFITT: No. In fact, the time we're</p>
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<p>1 because it is our understanding that, by known</p> <p>2 carcinogens, the plaintiff is referring to asbestos. It</p> <p>3 is not obviously asbestos stated as such, but that would</p> <p>4 be an additional objection on our part to that bullet.</p> <p>5 MS. PARFITT: And again, your Honor,</p> <p>6 Dr. Siemiatycki would lay the foundation for this slide.</p> <p>7 Again, it is simply illustrative that just about every</p> <p>8 decade there has been some type of discovery in medical</p> <p>9 history that has come about, again without the existence</p> <p>10 of some mechanism.</p> <p>11 And what I had to do in order to comply with the</p> <p>12 Court's order, there was other data from the 1960s and</p> <p>13 1970s and I couldn't put that. So I just put that</p> <p>14 there's something happening in those decades. And so we</p> <p>15 put known carcinogens and cancer.</p> <p>16 THE COURT: Is there any known carcinogen other</p> <p>17 than asbestos that you could substitute in there?</p> <p>18 MS. PARFITT: There were others. It wasn't just</p> <p>19 asbestos. We had one in 1970 --</p> <p>20 THE COURT: It would be better if it had a name</p> <p>21 of something.</p> <p>22 MS. PARFITT: It was objectionable, though, too,</p> <p>23 your Honor. I think it fell into a heavy metal too. So</p> <p>24 the problem was in both decades, I was betwixt and</p> <p>25 between. So I thought to be safe -- and it's awkward, as</p> <p>26 you can see. It makes for a funny slide. I don't like</p> <p>27 it. It is very awkward, but then I'm left with a couple</p> <p>28 decades with nothing happening.</p>	<p>1 spending right now is probably more time than he is going</p> <p>2 to spend on it. So that's the good news.</p> <p>3 MS. POPKIN: Your Honor, one additional point on</p> <p>4 that. They are just examples. But the problem is that</p> <p>5 they come under this header that says "without any</p> <p>6 understanding of the mechanism." And, of course, we can</p> <p>7 disagree what "any understanding" means.</p> <p>8 And so if they are just to replace the known</p> <p>9 carcinogen with something else that they're putting in,</p> <p>10 we have no opportunity to figure out whether that's</p> <p>11 something to -- he said before or we --</p> <p>12 THE COURT: Well, presumably, there's a fair</p> <p>13 amount of literature on all of this.</p> <p>14 MS. PARFITT: There is, your Honor. I can</p> <p>15 represent that and query the doctor --</p> <p>16 THE COURT: And if you can look at some of that</p> <p>17 literature, I imagine that there's an effective</p> <p>18 cross-examination from just basic literature.</p> <p>19 MS. POPKIN: I would agree. Our point is that</p> <p>20 it wasn't in his report. It wasn't -- we didn't ask</p> <p>21 about it at the deposition. So that's our objection.</p> <p>22 THE COURT: Well, as I said yesterday, with the</p> <p>23 exception of Dr. Plunkett, the Court didn't look at the</p> <p>24 testimony of what was in the report.</p> <p>25 Any others?</p> <p>26 MS. PARFITT: The very last one -- excuse me.</p> <p>27 There is one, Exhibit Number 74. And, your Honor, I --</p> <p>28 it was entitled "Examples of Relative Risk for</p>

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<p>1 Established Percentages." And it just showed up.</p> <p>2 What counsel had asked for was citations for the</p> <p>3 various carcinogens that we had listed. Again, we did it</p> <p>4 to try to address the concerns of counsel. Again, I</p> <p>5 think these are foundational. You can lay the</p> <p>6 foundation.</p> <p>7 But I did it anyway. Or, actually, others did</p> <p>8 it for me. And we now have a slide -- but, Counsel,</p> <p>9 we're not going to see it for a while. So if you want to</p> <p>10 take a look at it, we have sources for each and every one</p> <p>11 of the carcinogens. And that's the objection.</p> <p>12 THE COURT: That was your objection? You</p> <p>13 couldn't check the numbers?</p> <p>14 MS. POPKIN: It was one of our objections, yes.</p> <p>15 It's -- what the plaintiff is doing on this slide is a</p> <p>16 very specific thing. They're connecting a carcinogen to</p> <p>17 a type of cancer to a specific relative risk. And</p> <p>18 without the sources, we have no way to know where he's</p> <p>19 getting that from. So that's our first.</p> <p>20 THE COURT: I agree with that.</p> <p>21 MS. PARFITT: Now we have sources.</p> <p>22 MS. POPKIN: That's our first issue. Our second</p> <p>23 issue is that, again, with the exception of the outdoor</p> <p>24 particulate matter, air pollution at the top, which</p> <p>25 Dr. Siemiatycki actually was asked about during his</p> <p>26 deposition -- although he did give a different relative</p> <p>27 risk number at that deposition -- the other carcinogens</p> <p>28 on this list were not included in his report in the</p>	<p>1 and his awareness of the process in general and the</p> <p>2 process as it relates to talc. And his answer was that</p> <p>3 he was not aware of the specific process, question and</p> <p>4 answer, or one part of it, was:</p> <p>5 "QUESTION: You have not evaluated the process</p> <p>6 by which NTP reviewed talc with regard to the</p> <p>7 RoC report in preparing your report; correct?</p> <p>8 "ANSWER: No, I did not review this 2002</p> <p>9 report.</p> <p>10 "QUESTION: Did you review any of the details</p> <p>11 about how NTP went about reviewing talc as to</p> <p>12 whether -- and whether to list it in the RoC</p> <p>13 report?</p> <p>14 "ANSWER: I did not review the procedures that</p> <p>15 the NTP undertakes to review talc or other</p> <p>16 agents."</p> <p>17 Based on that testimony, we don't -- there is no</p> <p>18 basis for him to be making a statement, this statement.</p> <p>19 And, frankly, it's not -- shouldn't even be in the scope</p> <p>20 of his expert testimony.</p> <p>21 MS. PARFITT: If I may, your Honor. This slide</p> <p>22 is entitled "Correcting Some Major Misconceptions."</p> <p>23 Dr. Siemiatycki did not talk specifically about</p> <p>24 the NTP report in this case. Lee is absolutely correct.</p> <p>25 What he did talk about, though, is his knowledge</p> <p>26 of what the Report on Carcinogens is. He is an</p> <p>27 environmental epidemiologist, and he knows what a RoC</p> <p>28 report is.</p>
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<p>1 context of this very specific connection of a carcinogen</p> <p>2 to a type of cancer to a relative risk number.</p> <p>3 THE COURT: Was he examined on the concept that</p> <p>4 there are various carcinogens that are tied to certain</p> <p>5 cancers where the relative risk is less than 2?</p> <p>6 MS. PARFITT: Your Honor, yes. And that's</p> <p>7 really -- again, it's illustrative of there are a wide</p> <p>8 range of relative risks of carcinogens and diseases.</p> <p>9 Again, I don't intend to make a case out of any</p> <p>10 one of these. It's just illustrative that there are</p> <p>11 different relative risks.</p> <p>12 THE COURT: Counsel, why don't you take a look</p> <p>13 at the cites that --</p> <p>14 MS. PARFITT: And I think that's fair. They</p> <p>15 haven't seen the cites.</p> <p>16 THE COURT: -- counsel has, and then we can take</p> <p>17 this up tomorrow if we need to.</p> <p>18 MS. POPKIN: Okay. That sounds good. There is</p> <p>19 actually, if we go back one slide, your Honor, to</p> <p>20 Slide 73 -- which let me look at, I guess, the new</p> <p>21 version of 73 -- there's --</p> <p>22 MS. PARFITT: Do you want to look at this?</p> <p>23 MS. POPKIN: I think I have it. Thank you.</p> <p>24 Number 6, the lack of a mention of an agent by</p> <p>25 the NTP report on carcinogens is not the same as a</p> <p>26 conclusion of noncarcinogenicity.</p> <p>27 Two things on that. One, Dr. Siemiatycki was</p> <p>28 specifically asked about the NTP during his deposition</p>	<p>1 This statement is very generic. It has nothing</p> <p>2 to do with talc. It just has to do with what's a RoC</p> <p>3 report. That on -- and on page -- excuse me -- page</p> <p>4 108 -- I believe it's line 18 -- he's asked, "Do you know</p> <p>5 what the Report on Carcinogens is?"</p> <p>6 He says, "Yes. It's a report that comes out</p> <p>7 periodically. I don't know if it's only sponsored by the</p> <p>8 NTP or some other as well as the federal government, but</p> <p>9 it's kind of a compendium sort of a crib sheet."</p> <p>10 Dr. Siemiatycki is very knowledgeable of what</p> <p>11 that report is. He will not be testifying about the NTP</p> <p>12 report here, vis-a-vis talc, nor does that slide suggest</p> <p>13 that at all.</p> <p>14 THE COURT: So I think that, as long as a proper</p> <p>15 foundation is laid by him, by the time you get to this</p> <p>16 slide then, he can say what is or isn't in the report as</p> <p>17 long as he relies on it.</p> <p>18 MS. PARFITT: Thank you.</p> <p>19 THE COURT: All right. Let me --</p> <p>20 MS. POPKIN: Well, your Honor, one more point on</p> <p>21 that last issue. He doesn't rely on it. That's the</p> <p>22 point. He didn't read anything about the NTP. And so</p> <p>23 for counsel to now come in and try to correct what they</p> <p>24 perceive as a misconception that has come up elsewhere in</p> <p>25 the case is not proper. He is not an expert on the NTP,</p> <p>26 and it shouldn't be something that he is permitted to</p> <p>27 speak about.</p> <p>28 MS. PARFITT: Your Honor, if I may? He</p>

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<p>1 chaired -- he has chaired, over decades, the IARC 2 Committee. He has to know what the NTP report is. 3 That's all he's going to say. He's at least 4 knowledgeable; otherwise, he would look a bit silly, I 5 would think, before this Court and jury. 6 THE COURT: Right. I think that there's a 7 proper foundation laid that it's a proper slide. 8 MS. PARFITT: Thank you. 9 MR. SMITH: All right. Let's bring in Juror 10 Number -- 11 MS. POPKIN: Your Honor, if I may, there are a 12 few additional demonstratives that are much shorter. We 13 can deal with those as they come up, if that's the 14 Court's preference, but we are prepared to deal with them 15 now. I did raise this with Ms. Parfitt yesterday. 16 MS. PARFITT: If you want to just finish this 17 out, it will take less than 30 seconds. On that same 18 slide -- 19 THE COURT: You want to set a timer? 20 MS. PARFITT: I'm going to try. I will use my 21 New York speech now. 22 On that same slide, counsel has objected now -- 23 MS. POPKIN: No. That's not actually what I was 24 referring to. There are two separate demonstratives that 25 are images of Dr. Siemiatycki's children's books, and 26 we -- 27 MS. PARFITT: No problem, your Honor. I don't 28 need to show the images of children. We'll talk about</p>	<p>1 So that's why it seems a bit appropriate. So 2 it's not so unusual that I might want to use it. 3 THE COURT: Well, here's the ruling. It's not 4 permitted. And I will tell you why. It's not 5 authenticated in any way. I have no idea if this is a 6 real poster or a fake poster. All I can tell is it comes 7 from something called strangecosmos.com. 8 MS. PARFITT: Thank you, your Honor. 9 MS. POPKIN: Your Honor, I would just like to 10 correct the record on that one point. 11 Our internal -- our consultant said that we 12 would -- it would be a tragic misperception if we were 13 associated with the cigarette industry because we have 14 valid reasons and strong support for our position. 15 THE COURT: This is Dr. Wehner's letter. 16 MS. POPKIN: That is Dr. Wehner's letter. 17 THE COURT: Thank you. Let's get Juror Number 9 18 in here. Correct? That's the juror that -- 19 MR. WILLIAMS: Your Honor, before the juror 20 comes in, may we make a point that we have observed -- 21 our team has observed when we were at sidebars -- that 22 jurors are speaking with one another pointing to their 23 notes. It's not appropriate for them to talk about the 24 case. 25 If we could just have a continuing admonition 26 that they -- that they can talk but that they shouldn't 27 talk about the case or their notes. Thank you. 28 THE COURT: I will do that. You never know</p>
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<p>1 it. I don't need them. 2 THE COURT: We're done with children's books. 3 Okay. 4 MS. PARFITT: There is one. It comes at the 5 very end. We'll have plenty of time to talk about it. 6 MS. POPKIN: I actually think that that one will 7 also be quick, and we prefer to take care if it. 8 MS. PARFITT: If you look at Number 745, the 9 title is "Discovery of cancer-causing agents is always a 10 surprise." I'll wait until your Honor gets there. 11 Again, a demonstrative of why. 12 Dr. Siemiatycki -- excuse me -- he will be drawing the 13 analogy that just like smoking -- you know, we don't 14 know. We didn't know for decades doctors were smoking. 15 We didn't know of the discovery. It took -- it was a 16 latency. There was a long period of time when science 17 was somewhat catching up. And that's the example of it. 18 MS. POPKIN: Your Honor, this slide has no 19 probative value, and it is highly prejudicial. It is an 20 advertisement. The source is strangecosmos.com. It 21 is -- the suggestion -- the clear inference the plaintiff 22 wants the jury to make is that talc is the new tobacco. 23 It is inappropriate, and we think it's -- 24 MS. PARFITT: Just let me respond. The 25 defendants' own documents, their internal documents -- I 26 think your Honor has gotten a little flavor of that -- 27 actually analogize to "If we don't do something, we're 28 going to be the next tobacco."</p>	<p>1 what's in their notes, though. 2 MR. WILLIAMS: True. But out of an abundance of 3 caution, they should probably be told not to show notes. 4 THE COURT: I'm with you. 5 COURTROOM ATTENDANT: Juror Number 9 is coming 6 in. 7 THE COURT: Ma'am, would you come up for just a 8 second. Anyplace that you're comfortable. 9 It was brought to my attention, and I just 10 wanted to bring it to yours, that someone in the 11 courtroom apparently observed you on your phone. It's 12 really not appropriate during trial. So I ask you to not 13 do that. And I remind you that texting, blogging, et 14 cetera, about the case are, of course, not appropriate. 15 I'm not suggesting that happened. 16 JUROR NO. 9: Okay. 17 THE COURT: But someone in the courtroom 18 apparently -- I didn't see it, but someone apparently saw 19 you on the phone. Please don't do that. 20 JUROR NO. 9: All right. I'm sorry. 21 THE COURT: That's okay. We're so used to 22 having our phones at all times. And I suspect -- 23 although I don't know -- that if I looked carefully, I'd 24 see some lawyers with their phones also. 25 JUROR NO. 9: Thank you, your Honor. 26 THE COURT: Thank you. It's just a warning, 27 please. All right. 28 Let's have all the jurors come in. Thank you.</p>

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<p style="text-align: right;">Page 2039</p> <p>1 MR. ROBINSON: Your Honor, could we -- one 2 issue? Maybe we can do it at the end of the day. I just 3 wanted to make a point that we filed a brief on the head 4 of the NTP wanting to come out here tomorrow and would be 5 available for deposition over the weekend. 6 But can we discuss that -- 7 THE COURT: We'll take that up at the end of the 8 day. I think the defense needs an opportunity to think 9 about that, and I think they got your brief this morning. 10 Yes? 11 MR. WILLIAMS: That's right. 12 THE COURT: Let's have the jurors come in. 13 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN 14 COURT IN THE PRESENCE OF THE JURY:) 15 THE COURT: All right. Everyone is back. We've 16 Dr. Godleski here. All the jurors are in their seats, 17 and the two alternates and trial counsel are here. Let's 18 proceed with Dr. Godleski. 19 Mr. Dearing. 20 COURTROOM ATTENDANT: Your Honor, Counsel, can 21 you wait one second? Because I want everything to be 22 visible for the jurors, and apparently these chairs are 23 blocking the view. So you can scoot down. 24 THE COURT: Does that give everybody a little 25 more room? Everybody okay? There you go. 26 I wasn't kidding you when we started this case 27 that, you know, it's a smaller courtroom. 28 Go ahead, Mr. Dearing.</p>	<p style="text-align: right;">Page 2041</p> <p>1 Q And I certainly didn't mean to imply by showing 2 you this and having you explain it to the jury that we 3 had positively identified these particles as talc. 4 So was that your intent when we were discussing 5 this photomicrograph? 6 A These are particles that are birefringent. And 7 we would do the electron microscopy to determine 8 specifically that these are talc. 9 Q Right. And you can't -- can you determine 10 definitively from a photomicrograph from a polarized 11 light microscope whether those particles are talc? Or do 12 you have to use a scanning electron microscope? 13 A You can't determine from polarized light that is 14 talc. That's why we do the electron microscopy. 15 Q And so we showed this to the jury to 16 demonstrate -- 17 THE COURT: Counsel. 18 MR. DEARING: I'm sorry. 19 Q BY MR. DEARING: Were you showing this to the 20 jury to demonstrate just the methodical process you used 21 in identifying what tissue you want to examine more 22 closely for talc? 23 A Exactly. 24 Q Now, one thing I do want to clarify also is, 25 although you cannot state definitively that these fibers 26 in this photograph are talc, you did look at an area just 27 below where you saw these fibers with your scanning 28 electron microscope; correct?</p>
<p style="text-align: right;">Page 2040</p> <p>1 * REDIRECT EXAMINATION RESUMED * 2 *[2:09 P.M.]* 3 Q BY MR. DEARING: Good afternoon. I won't be 4 long. I only have a few topics I want to ask you about. 5 Earlier today, counsel for Johnson & Johnson 6 asked you some questions about these what we call 7 photomicrographs, these photographs that you took with 8 your polarized light microscope. And I thought the point 9 was clear, and I certainly don't want to mislead anybody. 10 So I want -- 11 MR. WILLIAMS: Objection to the preamble, your 12 Honor. It's not a question. 13 THE COURT: Sustained. But we do have to put 14 the question in context. 15 So go ahead, counsel. 16 Q BY MR. DEARING: Thank you. I just want to ask 17 you a couple quick questions about the birefringent 18 particles that you saw in these photographs. And that's 19 what we're going to talk about. 20 A Okay. 21 Q Let me just start with -- I'll just pick one at 22 random. Let me start with this one (indicating). This 23 is EE155. 24 You remember this, of course? 25 A Yes. 26 Q And this is just a photomicrograph that shows 27 birefringent particles in tissue; correct? 28 A That's correct.</p>	<p style="text-align: right;">Page 2042</p> <p>1 A That's correct. 2 Q And is that -- and I'm looking at -- I'm 3 displaying EE40B. And is this -- 4 Jeff, can you put up EE40B. 5 Is this the scanning electron microscope image 6 that you took and captured that's just below the 7 birefringent particles you saw on the previous board? 8 A Yes. 9 Q Okay. So for -- to put this into context, so if 10 this piece of paper was the plane of focus that you saw 11 the birefringent particles on. And let's say the 12 birefringent particles were found -- can you see this? 13 A Yes. 14 Q -- were found in that circle. What you've done 15 here is you've shaved off the top and found the talc 16 fibers right beneath there; correct? 17 MR. WILLIAMS: That's leading, your Honor. 18 THE COURT: Sustained. 19 Q BY MR. DEARING: If this paper represented the 20 frame of focus where you saw the birefringent particles, 21 how would you describe where you found the talc fiber 22 that you did positively identify with scanning electron 23 microscopy? 24 A I would say if that were a stack of papers of 25 which you had maybe five papers in it, then where I found 26 the electron microscopy pictures would be maybe on page 3 27 or page 4. 28 Now, in the analysis report, some of which was</p>

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<p style="text-align: right;">Page 2043</p> <p>1 seen this morning, we had a picture of the glass slide. 2 And on the glass slide you could see that, very often, 3 when glass slides -- when tissues are cut and placed on 4 glass slides, you get several cuts of the same thing on 5 the slide. 6 So as a pathologist, you then look at each of 7 those. And what you always see is that it's not -- each 8 piece is not exactly the same, but it's the same area. 9 And the same features of the area will be there. 10 Sometimes you'll see the same cells, depending on how big 11 they are. But it will be the same area. 12 So if you then cut off more and look at it 13 again, chances are again it's going to still be the same 14 area. Or if it's an area that has a particular feature, 15 you're going to be able to see that in many levels. 16 And that's what we're doing. And so that's why 17 we use polarized light to choose the slides that have the 18 most birefringent particles so we could come back and be 19 more likely to find them in the tissue below. And in 20 this case -- in this example, that's exactly what we're 21 seeing. 22 Q Let me ask you this: Since -- you testified 23 this talc fiber was found right below these birefringent 24 particles. And because you testified that they had 25 similar appearance and similar tissue around them, does 26 that make it more likely, in your opinion, in your 27 professional judgment, that these actually may be talc 28 fibers?</p>	<p style="text-align: right;">Page 2045</p> <p>1 by light microscopy, and they get every one of our images 2 and spectra that we do by electron microscopy. 3 Q Do you take more photographs than what are 4 actually contained in the paper part of your report? 5 A We usually -- I usually do. 6 Q And how do you go about selecting -- or why do 7 you select the photomicrographs that you actually include 8 in the paper part of your report? 9 A They usually represent blocks that we chose for 10 further study. And they are also pictures that represent 11 the kind of findings that we have in the case. 12 Q So did you choose these photomicrographs because 13 they demonstrated something that you wanted to tell the 14 jury about? 15 A Yes. 16 Q With regard to this photomicrograph -- 17 Jeff, can you put up EE155 again, please. 18 Do you recall giving a deposition where this 19 photomicrograph was discussed in detail? 20 A Yes. 21 Q And is that what led to you drawing arrows and 22 things on the diagram? 23 A Yes. 24 Q Were you asked questions about the macrophages 25 that you found in this diagram? 26 A Yes. 27 Q Do you remember about how many macrophages that 28 you found?</p>
<p style="text-align: right;">Page 2044</p> <p>1 A Yes. 2 Q Okay. But we're not going to state for sure 3 that they are? 4 A We can't say for sure, but it's certainly more 5 likely. 6 Q I just wanted to make that perfectly clear. 7 Mr. Williams also spent a good bit of time 8 talking to you about the fact that the word 9 "inflammation" did not appear in either of your two 10 reports. And I want to ask you some follow-up questions 11 about that. 12 Why do you put photomicrographs in your report? 13 A A picture is worth a thousand words. So that as 14 you look at the picture, I can explain what's there. 15 Some reviewer of this report can see what's there and 16 make their own judgments. 17 Q And you mentioned earlier the photographs aren't 18 just part of your Word document for the report; you 19 actually send the JPEG photos with the other information 20 to the defendants so they can actually see in more detail 21 what you saw; right? 22 MR. WILLIAMS: Objection; leading. 23 THE COURT: Sustained. 24 Q BY MR. DEARING: Do you also send JPEG photos 25 and more clearer pictures than what you might get on a 26 Microsoft Word document to the defendants? 27 A Exactly. The defendants get the polarized light 28 pictures that I take, the pictures of tumor that I take</p>	<p style="text-align: right;">Page 2046</p> <p>1 A 11 or 12 that I recall. 2 Q And is that what you drew the arrows to in this 3 picture? 4 A Yes. Yes. 5 Q Let me switch gears again and talk about 6 something else. 7 Mr. Williams put up the two charts from the data 8 files that you sent to the defendants that accompanied 9 your report that had the breakdown of the different 10 particles that you identified. And I think his number 11 was he counted 1472 particles that you determined were 12 not talc. 13 Do you remember that line of questioning? 14 A Yes. 15 Q And so I did some math during the break, and do 16 you agree that over a thousand of those were calcium 17 particles? 18 A I believe so. 19 Q And is calcium something that you'd commonly 20 find in tissue that's adjacent to cancer tumors? 21 A It's in adjacent tissue, it's in the tumor 22 itself, and sometimes, as we're looking at these by 23 scanning electron microscopy, because so much of the 24 tissue that's in these blocks and in these slides is 25 tumor tissue, and we don't necessarily expect to find 26 particles in tumor tissue because that's new growth. 27 This is growing new tissue. And so we expect it to be 28 more likely in the normal tissue. So we, in fact, have</p>

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<p>1 to look in the normal tissue. And sometimes that's not</p> <p>2 so easy, understanding electron microscopy.</p> <p>3 So we're already limiting ourselves to the</p> <p>4 central portion of the tissue that could not possibly</p> <p>5 have any contamination. So when we then are looking in</p> <p>6 that area, we sometimes are going over tumor tissue. And</p> <p>7 that's where we get all the calcium particles found.</p> <p>8 Sometimes they're also in normal tissue, but</p> <p>9 they're definitely in tumor tissue.</p> <p>10 Q And so would you consider calcium to be an</p> <p>11 endogenous particle? In other words, something that the</p> <p>12 body either makes or is expected to have?</p> <p>13 A Absolutely. These are clearly known to be part</p> <p>14 of a serous ovarian carcinoma.</p> <p>15 Q And do calcium particles have anything to do</p> <p>16 with formation of cancer?</p> <p>17 A No.</p> <p>18 Q Other than the fact that cancer may cause them?</p> <p>19 A No. Cancer can produce these, but they don't</p> <p>20 have anything to do with carcinogenesis.</p> <p>21 Q And of those remaining particles, remaining</p> <p>22 one-third or so, according to those two graphs, 137 of</p> <p>23 them were saline salts. Do those occur naturally in the</p> <p>24 body as well?</p> <p>25 A Well, there's -- there's sodium and chloride in</p> <p>26 the body and in tissues. And there's a fair amount of</p> <p>27 sodium chloride in our tissues, but it's ions.</p> <p>28 What happens in processing tissue is, in order</p>	<p>1 in.</p> <p>2 And, again, it's not relevant to the development</p> <p>3 of cancer, the identification of foreign particles, but</p> <p>4 it's a particle that we measured, so we report it.</p> <p>5 Q Thank you, Doctor.</p> <p>6 Okay. I want to move to another topic. I would</p> <p>7 like to talk about the Heller study one more time.</p> <p>8 And that's P334, Jeff.</p> <p>9 And I want to spend just a minute on this</p> <p>10 diapering issue. You were asked several -- and it's more</p> <p>11 than just that. But you were asked several questions by</p> <p>12 Mr. Williams yesterday about the lifespan of talc in</p> <p>13 tissue.</p> <p>14 A Yes.</p> <p>15 Q And ultimately you were asked whether --</p> <p>16 ALTERNATE JUROR REYES: Excuse me. Can you move</p> <p>17 the board? Thank you.</p> <p>18 MR. DEARING: I don't even think you guys are</p> <p>19 going to have to read it.</p> <p>20 Q BY MR. DEARING: I will put it up here in case</p> <p>21 you need to refer to it, but let me ask you some</p> <p>22 questions about it.</p> <p>23 You were asked some questions by Mr. Williams.</p> <p>24 And in his question, he suggested that talc may last</p> <p>25 about nine years in the body. And you said a 1-micron</p> <p>26 particle could dissolve in nine years. And then you were</p> <p>27 asked a follow-up question about whether your opinion was</p> <p>28 that talc may last 1 to 20 years in the body.</p>
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<p>1 to put it into the paraffin block, you have to take out</p> <p>2 all the water. As you take out the water, you also take</p> <p>3 out a lot of ions that are soluble in the water. But</p> <p>4 some get left behind, and they precipitate. And so we</p> <p>5 end up with precipitations of sodium chloride or salt in</p> <p>6 the tissues.</p> <p>7 When we're looking at these, they look like a</p> <p>8 particle. We're not discriminating particles by their</p> <p>9 morphology as -- in every one. So we do a spectrum, and</p> <p>10 it turns out to be salt. And so we have another particle</p> <p>11 that is really irrelevant as far as the analysis goes.</p> <p>12 But, in fact, it's a particle that we quantified and we</p> <p>13 did a spectrum on, and so we include it.</p> <p>14 Q And if my math is right, 39 of the remaining</p> <p>15 particles were carbon particles. Is that something you'd</p> <p>16 expect to find in virtually all tissue?</p> <p>17 A Yeah. All tissue are carbon. And, in fact,</p> <p>18 when we are looking at these, there can be a tissue</p> <p>19 formation that looks like a particle, especially in the</p> <p>20 backscatter mode. And so we end up taking a spectrum of</p> <p>21 it and it turns out to only be carbon.</p> <p>22 And so when we are looking at over a thousand</p> <p>23 particles, it's not uncommon that we pick up a few of</p> <p>24 these tissue formations that happen to be all carbon.</p> <p>25 And so we do a spectrum on them. The spectra are all</p> <p>26 consecutively numbered, and we don't drop any out. So</p> <p>27 that anyone reviewing this can follow the consecutive</p> <p>28 numbers. And if one turns out to be carbon, we keep it</p>	<p>1 And your answer was, "That's a reasonable</p> <p>2 estimate, but if a particle is larger or started out</p> <p>3 larger, it could be even longer."</p> <p>4 MR. WILLIAMS: Objection. Leading, your Honor.</p> <p>5 THE COURT: Sustained.</p> <p>6 Q BY MR. DEARING: Are you familiar with the</p> <p>7 Jurinski study?</p> <p>8 A Yes.</p> <p>9 Q And do you recall what the scientists in the</p> <p>10 Jurinski study opined with regard to how long talc is</p> <p>11 expected to continue to exist in human tissue?</p> <p>12 A That was an in vitro study, where what they did</p> <p>13 was put various kinds of particles with fluids that</p> <p>14 simulate tissue fluids of the body.</p> <p>15 And what they found was that in water alone, in</p> <p>16 acid or base, it didn't make too much of a difference</p> <p>17 with the particles they were looking at.</p> <p>18 But when they put -- made this solution that was</p> <p>19 a simulant of tissue fluid that had a variety of ions in</p> <p>20 it, that could substitute with ions in the particles,</p> <p>21 they found that you could eventually begin to have a</p> <p>22 dissolution process.</p> <p>23 And they started out with big particles, and</p> <p>24 they saw how much they dissolved. And then they -- they</p> <p>25 determined how long -- based on this model study, how</p> <p>26 long particles might remain in the body and to normalize</p> <p>27 the particles they made. They assumed they were all</p> <p>28 1 micron in size. And that was based on what they</p>

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<p style="text-align: right;">Page 2051</p> <p>1 learned from the larger particles.</p> <p>2 And so they then created a table in their paper</p> <p>3 that showed different dissolution rates of different</p> <p>4 particles. And one of the particles that they happened</p> <p>5 to look at in this study was talc. And they showed that</p> <p>6 a 1-micron particle of talc in their simulant human</p> <p>7 tissue fluid would dissolve in nine years.</p> <p>8 Q So based on that study and the tables that they</p> <p>9 created in that study, were they able to estimate</p> <p>10 different life spans for different-sized particles? In</p> <p>11 other words, as you increased in size, did that affect</p> <p>12 the lifespan?</p> <p>13 A Well, they showed some charts in that study</p> <p>14 where they had particle size relative to years. And so</p> <p>15 as particles got larger, they applied a linear model to</p> <p>16 it and showed that, as the particle was larger, it took</p> <p>17 longer to dissolve.</p> <p>18 Q So you've already testified that the particles</p> <p>19 that you associate with the defendants --</p> <p>20 MR. WILLIAMS: Objection. Leading, your Honor.</p> <p>21 MR. DEARING: I have to set up the question to</p> <p>22 ask it.</p> <p>23 MR. WILLIAMS: He's talking about what the</p> <p>24 witness testified to. It's leading.</p> <p>25 THE COURT: Sustained.</p> <p>26 Q BY MR. DEARING: If talc particles found in</p> <p>27 women's tissue were, say, 10 microns in size, would you</p> <p>28 expect the life expectancy of that particle to be 90</p>	<p style="text-align: right;">Page 2053</p> <p>1 * RECROSS-EXAMINATION *</p> <p>2 * [2:29 P.M.] *</p> <p>3 Q BY MR. WILLIAMS: Doctor, I'd like to ask you</p> <p>4 some questions about that last topic that Mr. Dearing was</p> <p>5 asking you about, specifically the issue of how long --</p> <p>6 the issue of -- the issue of how long talc can remain in</p> <p>7 the body.</p> <p>8 Do you recall that?</p> <p>9 A Yes.</p> <p>10 Q Is it true that the talc that you typically find</p> <p>11 in the body, depending on the size of the particle, could</p> <p>12 live in the body between 1 and 20 years? And my question</p> <p>13 is specifically directed to the types of talc particles</p> <p>14 that you have found in the body in your study.</p> <p>15 A We're seeing anywhere from 1- to 10-micron-sized</p> <p>16 particles in the studies that we do, the studies that</p> <p>17 we've done. And so if it were a 1-micron particle, it</p> <p>18 would be 9 years. If it were a 2-micron particle, it</p> <p>19 would be almost 20 years, and so forth.</p> <p>20 So that since many of them that we find are</p> <p>21 between 5 and 10 microns, you can -- you can do the math.</p> <p>22 So that in terms of a 1-micron particle or a 2-micron</p> <p>23 particle -- and we see these size particles. And so what</p> <p>24 you can infer from that is that a particle that size has</p> <p>25 either been there a short time, and we're seeing it, or</p> <p>26 it was a larger particle that may have been dissolved.</p> <p>27 Or -- and -- so those are kind of the options.</p> <p>28 Q The question that I'm asking, though, is --</p>
<p style="text-align: right;">Page 2052</p> <p>1 years based on the Jurinski model?</p> <p>2 A Based on that model, yes.</p> <p>3 Q And if the talc particle was 8 microns, would</p> <p>4 you expect the life expectancy to be 72 years based on</p> <p>5 that model?</p> <p>6 A Yes.</p> <p>7 Q And so if the oldest person in the Heller study</p> <p>8 was 66, would diapering be an issue?</p> <p>9 A Yes.</p> <p>10 Q And do you think that's why the authors actually</p> <p>11 had diapering information in their study?</p> <p>12 A I think so.</p> <p>13 Q Last question, Doctor.</p> <p>14 MR. WILLIAMS: Your Honor, if we may, on the</p> <p>15 Jurinski study, could we get an exhibit number and get a</p> <p>16 copy of the study.</p> <p>17 We were not provided that.</p> <p>18 MR. DEARING: Sure. It's P888. You can have</p> <p>19 it. Thank you.</p> <p>20 Q BY MR. DEARING: One last question, Doctor.</p> <p>21 Can it be stated to a reasonable degree of</p> <p>22 medical certainty that the presence of talc found in a</p> <p>23 woman's ovarian tissue can be contributory evidence for a</p> <p>24 causal link between the presence of talc and the</p> <p>25 development of a woman's ovarian cancer?</p> <p>26 A Yes.</p> <p>27 MR. DEARING: Thank you.</p> <p>28 That's all I have, your Honor.</p>	<p style="text-align: right;">Page 2054</p> <p>1 strike that.</p> <p>2 You have looked at a lot of tissue specifically</p> <p>3 for talc; correct?</p> <p>4 A Yes.</p> <p>5 Q And, indeed, you looked for talc in the tissue</p> <p>6 of -- you looked for talc in the tissue of</p> <p>7 Ms. Echeverria; correct?</p> <p>8 A Yes.</p> <p>9 Q And what I'm getting at is that in the talc that</p> <p>10 you've looked at, both from Ms. Echeverria and for other</p> <p>11 individuals that you've studied, the size of the talc</p> <p>12 that you have found in those cases is of a size that</p> <p>13 would last in the human body between 1 and 20 years.</p> <p>14 That's what you've testified to before; correct?</p> <p>15 A The smaller -- if we find -- and we do find</p> <p>16 particles between 1 and 2 microns. We find them up to</p> <p>17 10 microns in these tissues. So those that would be 1 to</p> <p>18 2 microns, we would expect to be 10 to 20 years.</p> <p>19 On the other hand, we find, in looking through</p> <p>20 our analysis summary, you see a number of particles that</p> <p>21 are magnesium silicates. And we know that as talc</p> <p>22 particles dissolve by this -- by this -- in this Jurinski</p> <p>23 study, what they found was they sort of began to try to</p> <p>24 understand how these particles actually dissolve. And</p> <p>25 what they found was that they -- or what they reported</p> <p>26 was that it was their impression that the magnesium came</p> <p>27 out first, and then the silicon -- the element silicon in</p> <p>28 an ionic form came out second. So that when we're</p>

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<p style="text-align: right;">Page 2055</p> <p>1 reporting on these particles, because they've been in 2 human tissue for various periods of time, it may be that 3 some of these magnesium silicates that we're seeing are 4 actually talc in some form of dissolution, that because 5 it doesn't meet the criteria for identification of talc 6 by chemical analysis, we are not able to call them talc. 7 So that, in fact, there may be more particles of 8 talc than we're able to identify when we, in fact, 9 identify magnesium silicates. But because they don't 10 have the appropriate ratio, we're not calling them talc. 11 MR. WILLIAMS: Your Honor, I would move to 12 strike the answer as nonresponsive. 13 MR. DEARING: I'd object. He's trying to 14 explain his answer. It's not as simple as the yes or no 15 that Mr. Williams would like. 16 MR. WILLIAMS: I wasn't asking for a yes or no; 17 I was simply asking for a range, your Honor. I'll 18 restate the question, but I would ask that the answer be 19 stricken as nonresponsive. 20 THE COURT: It's stricken. 21 Q BY MR. WILLIAMS: Dr. Godleski, my question was 22 that, in the analysis of talc and tissue that you've done 23 relating to talcum powder litigation -- do you have that 24 in mind? 25 A Yes. 26 Q -- you have testified that, when the particles 27 are smaller, the talc would move out of the body within a 28 year or so. And when the particles are larger, that they</p>	<p style="text-align: right;">Page 2057</p> <p>1 Q BY MR. WILLIAMS: Wasn't that your testimony? 2 A Um, well, you're reading your testimony and, 3 depending on the size of the particle, it could be there 4 1 to 20 years. And if it's a larger particle, it could 5 be there longer if you just apply the Jurinski model. 6 Q If I may, what you were being asked about were 7 the sizes of the particles in the talc cases that you had 8 reviewed; correct? 9 A Yes. And I'm saying in -- and I've said this 10 now several times that when you look at the distribution 11 of particle size, we have a lot of 1- to 2-micron-sized 12 particles. 13 Q Let me ask you a separate topic but also having 14 to do with the size of the particles. 15 I believe earlier today, in response to one of 16 my questions, you indicated that a typical size that was 17 your understanding of a particle of talc in Johnson's 18 baby powder, did you say that you had some knowledge one 19 way or the other of the size? 20 A I said there was a wide distribution of sizes, 21 from fairly large particles as big as 50 microns down to 22 1 micron and below. 23 Q And is that what you testified to today? 24 A I'm sorry? 25 Q Is that what you testified to today in your -- 26 A I testified today that there was a range of 27 particles -- a wide range of particle sizes. 28 Q Okay. Let me ask you about the particles that</p>
<p style="text-align: right;">Page 2056</p> <p>1 may last for as long as 20 years. Isn't that what you've 2 said? 3 A I don't believe so. And in applying the 4 Jurinski model, it would be 20 years for a 2-micron 5 particle. 6 Q Is it true that the talc that you have found has 7 probably been in the body, depending on the size of the 8 particle, somewhere between 1 and 20 years? 9 A Because smaller particles tend to get into 10 lymphatics and can move into the system, there are a lot 11 of particles that are found that are in the lower end of 12 the distribution of particle size. 13 MR. WILLIAMS: Your Honor, permission to read 14 from Dr. Godleski's testimony December 5, 2016, page 163, 15 line 4 through line 13. 16 MR. DEARING: No objection. 17 MR. WILLIAMS: You were asked the following 18 question and gave the following answer: 19 "QUESTION: So if you found magnesium silicate 20 that was at the level of talc, a level that's 21 specifically identifiable, would that mean 22 that the talc was recently in the body, rather 23 than being there over a period of time, a long 24 period of time? 25 "ANSWER: I think the talc that we find has 26 probably been in the body, depending on the 27 size of the particle, started out as could be 28 somewhere between 1 and 20 years."</p>	<p style="text-align: right;">Page 2058</p> <p>1 you found. In your first report, you agreed that you 2 identified 8 talc particles and 169 foreign external 3 particles; right? 4 A I'll take your word for it. I'm not looking at 5 that -- at that portion of the report. But I can refer 6 to my analysis summary. 7 Q That's fine. And just -- 8 A It's in that range. 9 Q And just a moment ago, Mr. Dearing did the math 10 and said that I had referred to 1472 nontalc particles. 11 And he indicated that about 1,000 or so were calcium; 12 correct? 13 A That's correct. 14 Q We know that Ms. Echeverria had tumors in her 15 tissue; correct? 16 A Yes. 17 Q And we know that we would expect, because she 18 had tumors in her tissue, that there would be some 19 calcium there; correct? 20 A That's correct. 21 Q On the issue of inflammation, though, with 22 respect to the 400 particles that were of a foreign type 23 that were not talc, it's true that those could cause 24 inflammation as well, some of them; correct? 25 A Depending on the particle that we're talking 26 about, depending on the size of the particle, they may 27 or -- and depending on the number of the type of 28 particle, all those can be important in determining</p>

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<p>1 whether there would be an inflammatory response.</p> <p>2 Q So the answer is yes, that some could cause</p> <p>3 inflammation; correct?</p> <p>4 A It's possible.</p> <p>5 Q And if we put up EE155, Mr. Bales.</p> <p>6 This was the image that had the arrows. Just so</p> <p>7 that we're clear -- I asked you about this earlier</p> <p>8 today -- this is an image of macrophages; correct?</p> <p>9 A Yes.</p> <p>10 Q You counted about a dozen; correct?</p> <p>11 A Yes.</p> <p>12 Q But it's a fact, though, that you could not</p> <p>13 identify the fibers in the center of this image as talc?</p> <p>14 You could not say that it was talc and not something</p> <p>15 else; correct?</p> <p>16 A These are birefringent fibers --</p> <p>17 Q Just yes or no. Sir, just yes or no, you could</p> <p>18 not tell, Doctor, whether these were talc or something</p> <p>19 else. Is that accurate?</p> <p>20 A There was a possibility they were talc. There</p> <p>21 was a possibility they were something else.</p> <p>22 Q And if you were to make a judgment call between</p> <p>23 one or the other, you would be speculating on that;</p> <p>24 right?</p> <p>25 A Well --</p> <p>26 Q You can't tell for sure, is what I mean.</p> <p>27 A But we found a fiber that was talc right</p> <p>28 adjacent to this area with the same tissue configuration.</p>	<p>1 particulate is talc.</p> <p>2 MR. WILLIAMS: Move to strike as nonresponsive.</p> <p>3 THE COURT: Stricken.</p> <p>4 Q BY MR. WILLIAMS: Do you recall being asked the</p> <p>5 question -- your Honor, permission to read from</p> <p>6 Dr. Godleski's testimony March 30th, 2017, lines -- page</p> <p>7 22, lines 10 through 18.</p> <p>8 THE COURT: Mr. Dearing?</p> <p>9 Q BY MR. WILLIAMS: You were asked the following</p> <p>10 question and gave the following answer.</p> <p>11 THE COURT: Counsel, would you share that with</p> <p>12 Mr. Dearing, please.</p> <p>13 MR. WILLIAMS: Oh. Of course.</p> <p>14 (A discussion is held off the record.)</p> <p>15 THE COURT: Go ahead.</p> <p>16 Q BY MR. WILLIAMS: Very well. Doctor, you were</p> <p>17 asked the following question and you gave the following</p> <p>18 answer:</p> <p>19 "QUESTION: I know that you only have the</p> <p>20 three pictures in front of you, but I don't</p> <p>21 think you noted anywhere in your report that</p> <p>22 you saw any inflammation in Ms. Echeverria's</p> <p>23 tissues. Is that something that you would</p> <p>24 have noted if you thought that it was</p> <p>25 significant?</p> <p>26 "ANSWER: Yes. I'm pointing out a few</p> <p>27 lymphocytes. I didn't consider that</p> <p>28 diagnostic of chronic inflammation."</p>
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<p>1 And so it's -- yeah, it's -- it's something that you can</p> <p>2 decide whether it's more likely than not these are talc</p> <p>3 fibers or these are some other kind of foreign fiber.</p> <p>4 Q And with respect to that --</p> <p>5 We can put that one up. I think it's Exhibit</p> <p>6 40B. Exhibit 40B, if would you, Mr. Bales.</p> <p>7 It's in the image on the left; correct?</p> <p>8 A Yes.</p> <p>9 Q And this is the image of the talc fiber;</p> <p>10 correct?</p> <p>11 A That's correct.</p> <p>12 Q This is -- strike that.</p> <p>13 At the time that you prepared your reports, you</p> <p>14 did not make any reference to inflammation. And I think,</p> <p>15 on redirect examination, Mr. Dearing asked you a question</p> <p>16 and you said "a picture is worth a thousand words";</p> <p>17 correct?</p> <p>18 A That's correct.</p> <p>19 Q Well, even if a picture is worth a thousand</p> <p>20 words, when you're writing the report for litigation, it</p> <p>21 is a fact, isn't it, that if you had seen something that</p> <p>22 you thought was significant with respect to inflammation,</p> <p>23 that you would have included that in your written report?</p> <p>24 True or not true?</p> <p>25 A My written report focuses on two points. One is</p> <p>26 the identification and confirmation of the tumor. And</p> <p>27 the second is the identification and confirmation of the</p> <p>28 presence of particulate in the tissue and whether that</p>	<p>1 That's what you testified to with respect to</p> <p>2 your first report; correct?</p> <p>3 A That's correct.</p> <p>4 Q With respect to your second report, which</p> <p>5 contains Exhibit EE40B, which is on the screen right</p> <p>6 now --</p> <p>7 A Yes.</p> <p>8 Q -- the same thing would be true, would it not,</p> <p>9 Doctor, with respect to any report that you prepared? If</p> <p>10 you had seen inflammation in Ms. Echeverria's tissues</p> <p>11 that you thought would be of note, you would have noted</p> <p>12 it; correct?</p> <p>13 A I have a picture that shows a lot of</p> <p>14 macrophages. Now, the definition of inflammation can be</p> <p>15 variable. Whether chronic inflammation has lymphocytes,</p> <p>16 whether macrophages with particles is truly inflammation</p> <p>17 from the point of view of a pathologist can be arguable.</p> <p>18 Whether that represents chronic inflammation or whether</p> <p>19 that represents a physiologic process that actually</p> <p>20 starts the cascade of inflammation and perhaps started a</p> <p>21 cascade of inflammation early on that is now cleared</p> <p>22 away.</p> <p>23 You know, tissues heal and we can go through</p> <p>24 just any example of a lesion on your skin, a lesion</p> <p>25 anywhere, that heals with very little evidence that there</p> <p>26 was a lesion there. Your wooden sliver example is a good</p> <p>27 one that you asked me earlier.</p> <p>28 MR. WILLIAMS: Forgive me, your Honor. But I</p>

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<p>1 need to move to strike as nonresponsive to the question.</p> <p>2 MR. DEARING: Your Honor, he's trying to answer</p> <p>3 these questions. They're not very simple questions.</p> <p>4 They require information.</p> <p>5 THE COURT: Well, it doesn't -- it's a yes-or-no</p> <p>6 question. It did not require a long answer.</p> <p>7 Q BY MR. WILLIAMS: I'll be happy to restate it.</p> <p>8 It was a while ago.</p> <p>9 THE COURT: It's stricken.</p> <p>10 MR. WILLIAMS: Excuse me, your Honor.</p> <p>11 Q BY MR. WILLIAMS: My question is this,</p> <p>12 Dr. Godleski: We just read the testimony with respect to</p> <p>13 your first report where you testified that, if you had</p> <p>14 noted something that you thought was significant,</p> <p>15 specifically with regard to inflammation, that you would</p> <p>16 have noted it; correct?</p> <p>17 A Yes.</p> <p>18 Q We are looking at an image that was in your</p> <p>19 second report; correct?</p> <p>20 A That's correct.</p> <p>21 Q And in your second report, like your first</p> <p>22 report, you didn't say anything about inflammation that</p> <p>23 you noted as significant until you got here to court when</p> <p>24 you testified; correct?</p> <p>25 A But I have a picture that I discussed in</p> <p>26 deposition that shows inflammation that we've discussed</p> <p>27 here in court. And in the first pictures that we talked</p> <p>28 about, we didn't talk in terms of evidence of</p>	<p>1 A Or I would have had a picture of it.</p> <p>2 Q Well, you had plenty of pictures in both</p> <p>3 reports; correct?</p> <p>4 A I have pictures in both reports.</p> <p>5 Q And in the second report, there isn't anything</p> <p>6 identifying inflammation with respect to this slide or</p> <p>7 any other; isn't that true?</p> <p>8 MR. DEARING: Objection. If "regard to</p> <p>9 anything" means he's excluding photographs, I think this</p> <p>10 is getting circular.</p> <p>11 THE COURT: It is a little circular.</p> <p>12 MR. WILLIAMS: I'm talking about the written</p> <p>13 language, your Honor. I'll rephrase.</p> <p>14 Q BY MR. WILLIAMS: With respect to the written</p> <p>15 report where you were describing your findings and you</p> <p>16 said that you would have noted it in the testimony you</p> <p>17 gave, with respect to the second report, if you had noted</p> <p>18 the inflammation, you would have written it down; right?</p> <p>19 MR. DEARING: Objection; asked and answered.</p> <p>20 THE COURT: Overruled.</p> <p>21 THE WITNESS: In the second report I had a</p> <p>22 picture, when asked about it in deposition under oath, I</p> <p>23 identified macrophages and inflammation within fat, that</p> <p>24 we discussed extensively in that deposition.</p> <p>25 Q BY MR. WILLIAMS: You were asked some</p> <p>26 questions --</p> <p>27 You can take that down.</p> <p>28 You were asked some questions about laboratories</p>
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<p>1 inflammation. I pointed out a few lymphocytes that --</p> <p>2 the statement that you've read was exactly the way it</p> <p>3 was.</p> <p>4 Q My question was, with respect to the written</p> <p>5 reports that you prepared, there's no reason -- a new</p> <p>6 question. Excuse me.</p> <p>7 There's no reason why you have one rule for your</p> <p>8 first report and one rule for your second, meaning if you</p> <p>9 are going to identify inflammation that you believe is</p> <p>10 important, if you see it, in your written report and you</p> <p>11 didn't see it in the first report and you didn't note it,</p> <p>12 in the second report, if you didn't note anything about</p> <p>13 inflammation, why would the rule for you be any</p> <p>14 different?</p> <p>15 MR. DEARING: Objection, your Honor. That's a</p> <p>16 compound question. And I don't even understand it, so I</p> <p>17 doubt the witness does.</p> <p>18 THE COURT: Sustained.</p> <p>19 MR. WILLIAMS: I'll rephrase.</p> <p>20 Q BY MR. WILLIAMS: Dr. Godleski, in the second</p> <p>21 report, there's no reference to anything about</p> <p>22 inflammation; correct?</p> <p>23 A That's correct. I didn't use the word</p> <p>24 "inflammation."</p> <p>25 Q And in the first report, with respect to that</p> <p>26 report, you testified under oath that, if there had been</p> <p>27 anything significant regarding inflammation, you would</p> <p>28 have made a note of it in the written report; correct?</p>	<p>1 and gloves and the idea that talc is no longer used on</p> <p>2 gloves in laboratories.</p> <p>3 Do you recall that?</p> <p>4 A Um --</p> <p>5 Q By Mr. Dearing.</p> <p>6 MR. DEARING: Your Honor, I object. That's</p> <p>7 beyond the scope of redirect. I didn't ask anything</p> <p>8 about gloves.</p> <p>9 THE COURT: Sustained.</p> <p>10 MR. WILLIAMS: Actually, he did.</p> <p>11 MR. DEARING: I don't think so, not on redirect.</p> <p>12 MR. WILLIAMS: Right. Here on redirect.</p> <p>13 THE COURT: Just a few questions about it.</p> <p>14 MR. WILLIAMS: Sure, a very few.</p> <p>15 Q BY MR. WILLIAMS: Is it true, Dr. Godleski, that</p> <p>16 cornstarch causes the same granulomas on gloves that talc</p> <p>17 can cause?</p> <p>18 A Cornstarch is distinctive under polarized light.</p> <p>19 And if you see cornstarch, that is identifiable under</p> <p>20 polarized light with a pattern that is unmistakable.</p> <p>21 Q My point is simply that, with respect to</p> <p>22 surgeons' gloves or operating room gloves, neither</p> <p>23 cornstarch nor talc is permitted any longer because of</p> <p>24 the possibility that both substances can cause granulomas</p> <p>25 if it were to get into human tissue; correct?</p> <p>26 A That's correct. Surgeons' gloves are different.</p> <p>27 Surgeons' gloves do not have any powder that can cause a</p> <p>28 tissue reaction.</p>

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<p style="text-align: right;">Page 2067</p> <p>1 So when you talk about surgeons' gloves or you</p> <p>2 talk about the packs of a hundred gloves that are in</p> <p>3 pathology departments, you're talking about two entirely</p> <p>4 different things in terms of what powder is on them, how</p> <p>5 they're packaged, they're not sterile. Surgeons' gloves</p> <p>6 are sterile; surgeons' gloves are powder-free.</p> <p>7 You have to get -- you have to order special</p> <p>8 powder-free gloves for use in the laboratory, and,</p> <p>9 generally, that's not done.</p> <p>10 Q Neither talc nor cornstarch is currently used on</p> <p>11 gloves for surgeons; correct?</p> <p>12 A Exactly.</p> <p>13 MR. WILLIAMS: No further questions, your Honor.</p> <p>14 THE COURT: Thank you.</p> <p>15 MR. DEARING: Just a couple. I promise.</p> <p>16 * REDIRECT EXAMINATION *</p> <p>17 * [2:53 P.M.] *</p> <p>18 Q BY MR. DEARING: Doctor, cornstarch is organic;</p> <p>19 right? Are there any studies linking cornstarch to</p> <p>20 ovarian cancer?</p> <p>21 A Cornstarch is organic, and I don't know of any</p> <p>22 studies where it's been specifically tested. But in</p> <p>23 terms of the appearance of cornstarch, it has a very</p> <p>24 distinctive pattern under polarized light.</p> <p>25 Q And back to the quick question about magnesium</p> <p>26 silicates. Magnesium silicates you found in</p> <p>27 Ms. Echeverria's tissue and in other women, could this be</p> <p>28 talc that has degraded in tissue over time, as the</p>	<p style="text-align: right;">Page 2069</p> <p>1 MR. WILLIAMS: Yes, your Honor, at about -- I</p> <p>2 don't know -- five minutes ago, counsel just started</p> <p>3 talking about this issue of the disappearing inflammation</p> <p>4 which we thought had been excluded from the matter. We</p> <p>5 are now on re-redirect, and he's now bringing up an</p> <p>6 entirely new issue that I thought had been excluded from</p> <p>7 the case. And we would ask those questions and answers</p> <p>8 be stricken.</p> <p>9 And it was specific for Ms. Echeverria what he</p> <p>10 just did, which is a specific causation type of an</p> <p>11 opinion that this witness has just given after all of our</p> <p>12 discussion.</p> <p>13 And I didn't want to jump out of my chair and</p> <p>14 make a big deal. That's why I waited for now to come to</p> <p>15 sidebar. But in highlighting it -- and it's about the</p> <p>16 eighth time that they have gone into an area inviting us</p> <p>17 to jump up and down making an objection that it was</p> <p>18 improper. And that was the last, I guess, five minutes</p> <p>19 of testimony, three minutes and it should be stricken.</p> <p>20 MR. DEARING: First of all, this is not</p> <p>21 testimony that was stricken. If the Court recalls, the</p> <p>22 ruling on this issue is, if Dr. Godleski had testified</p> <p>23 about it before, it was fair game. Now, he testified</p> <p>24 about it many times.</p> <p>25 The other issue is this was invited by recross,</p> <p>26 or whatever we're on right now. So it's -- it was in</p> <p>27 direct response to questions that he was just asked about</p> <p>28 whether he put inflammation in this report. If he had</p>
<p style="text-align: right;">Page 2068</p> <p>1 Jurinski study suggests?</p> <p>2 A It's entirely possible.</p> <p>3 Q In none of the foreign particles that are left</p> <p>4 after you exclude all the calcium and all the other</p> <p>5 endogenous particles, the carbon, the talc, none of the</p> <p>6 particles that are left have been associated with ovarian</p> <p>7 action, have they --</p> <p>8 A No.</p> <p>9 Q -- to your knowledge?</p> <p>10 Is it possible that one reason you don't always</p> <p>11 see inflammation that, when a tumor forms, it actually</p> <p>12 subsumes the information and any evidence of that</p> <p>13 inflammation?</p> <p>14 A Yes, it's entirely possible. And the -- the</p> <p>15 pathologist tumor case is taking slides of tumor, not as</p> <p>16 much of the normal tissue. You want to document the</p> <p>17 extent of invasion into normal tissue, but there's no</p> <p>18 reason to look at an extensive amount of normal tissue.</p> <p>19 You're trying to characterize and document the extent of</p> <p>20 the tumor. So most of the slides in the case will be</p> <p>21 tumor slides.</p> <p>22 MR. WILLIAMS: Your Honor, may we be heard? I</p> <p>23 apologize, but we need to be heard.</p> <p>24 THE COURT: All right. Ladies and gentlemen,</p> <p>25 why don't you stand up and take a stretch while we do</p> <p>26 this.</p> <p>27 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE</p> <p>28 HELD AT SIDEBAR:)</p>	<p style="text-align: right;">Page 2070</p> <p>1 observed inflammation, would he have made a note of it.</p> <p>2 We've done that for 15 minutes.</p> <p>3 MR. WILLIAMS: Your Honor, the Court, in its</p> <p>4 previous comments on this very issue, said you have to</p> <p>5 stay away from speculative things.</p> <p>6 And this raises the very same issue that we</p> <p>7 raised the other day...for it to come up on re-redirect</p> <p>8 is improper. For the witness to testify about how the</p> <p>9 inflammation could have been there at some point in time</p> <p>10 and then disappeared, or maybe wasn't there at all in the</p> <p>11 first place -- but to make that judgment that it was</p> <p>12 there and it went away is rank speculation.</p> <p>13 And that's the reason why it should have been</p> <p>14 excluded. And because we had taken the position that it</p> <p>15 should not be raised here, we didn't raise it in the</p> <p>16 Sargon hearing. But the Court the other day noted that</p> <p>17 this would rise to the level of speculation if he were to</p> <p>18 get into it. And it was our understanding that this was</p> <p>19 not something that they would be permitted to raise and</p> <p>20 he shouldn't be permitted to raise.</p> <p>21 MR. DEARING: First of all, it's not speculation</p> <p>22 at all. A proper foundation has been laid many times</p> <p>23 with this testimony in the past. And the other fact is</p> <p>24 I've already moved on. I'm not even talking about it</p> <p>25 anymore.</p> <p>26 THE COURT: You are not going on. We will talk</p> <p>27 about whether we can strike it later.</p> <p>28 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN</p>

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<p style="text-align: right;">Page 2071</p> <p>1 COURT IN THE PRESENCE OF THE JURY:)</p> <p>2 THE COURT: Mr. Dearing.</p> <p>3 Q BY MR. DEARING: The last question I have,</p> <p>4 Doctor, is with regard to the Heller study, the</p> <p>5 suggestion was, from the authors, that talc is somewhat</p> <p>6 ubiquitous and most women probably have talc in ovaries,</p> <p>7 or something.</p> <p>8 Is that a fair statement of what that study is</p> <p>9 about?</p> <p>10 A Yes.</p> <p>11 Q Okay. And you've looked at many women's ovaries</p> <p>12 under a microscope; correct?</p> <p>13 A Yes.</p> <p>14 Q Do you always find talc in ovarian tissue?</p> <p>15 A No.</p> <p>16 MR. DEARING: That's all I have, your Honor.</p> <p>17 ALTERNATE JUROR REYES: I couldn't hear the last</p> <p>18 two questions.</p> <p>19 MR. DEARING: I could repeat them if you like.</p> <p>20 THE COURT: Rather than that, the court reporter</p> <p>21 is able to do it.</p> <p>22 Can you give the alternate a readback of the</p> <p>23 last two questions and the last two answers, please.</p> <p>24 (Whereupon the record was read by the</p> <p>25 reporter.)</p> <p>26 THE COURT: Thank you.</p> <p>27 MR. WILLIAMS: No further questions, your Honor.</p> <p>28 MR. DEARING: No further questions.</p>	<p style="text-align: right;">Page 2073</p> <p>1 THE WITNESS: Yes, I do</p> <p>2 THE CLERK: Thank you, sir. Please have a seat.</p> <p>3 Can you please pull the microphone towards you,</p> <p>4 sir. State and spell your first and last name for the</p> <p>5 record.</p> <p>6 THE WITNESS: My name is Jack Siemiatycki,</p> <p>7 J-A-C-K, S-I-E-M-I-A-T-Y-C-K-I.</p> <p>8 THE CLERK: Thank you, sir.</p> <p>9 THE COURT: Go ahead, Counsel.</p> <p>10 * DIRECT EXAMINATION *</p> <p>11 * [3:30 P.M.] *</p> <p>12 Q BY MS. PARFITT: Good afternoon,</p> <p>13 Dr. Siemiatycki.</p> <p>14 A Good afternoon.</p> <p>15 Q And ladies and gentlemen.</p> <p>16 Dr. Siemiatycki, could you please share with us</p> <p>17 your place of residence.</p> <p>18 A I live in Montreal, Canada.</p> <p>19 Q Are you a citizen of Canada?</p> <p>20 A I'm a citizen of Canada.</p> <p>21 Q Well, welcome to the United States.</p> <p>22 A Thank you.</p> <p>23 Q What is your profession?</p> <p>24 A I'm a professor and epidemiologist.</p> <p>25 Q Are you a medical doctor?</p> <p>26 A No, I'm not.</p> <p>27 Q Do you have a medical degree?</p> <p>28 A No, I don't.</p>
<p style="text-align: right;">Page 2072</p> <p>1 THE COURT: Thank you. You may step down, sir.</p> <p>2 Just leave all the things that aren't your things there.</p> <p>3 I'm going to give the jury a ten-minute break.</p> <p>4 Ladies and gentlemen, let's take a ten-minute</p> <p>5 break. Leave your notes here. Please don't discuss the</p> <p>6 case. Let me remind you that your notes are your notes.</p> <p>7 They're not to be shared with other jurors at this time.</p> <p>8 Thank you.</p> <p>9 (Jurors excused.)</p> <p>10 THE COURT: Counsel, give me five minutes, and</p> <p>11 we will take up the question that we discussed at</p> <p>12 sidebar.</p> <p>13 MR. WILLIAMS: What, your Honor? I'm sorry.</p> <p>14 THE COURT: We'll take that up in five minutes.</p> <p>15 (Brief recess taken from 3:02 P.M. to 3:28</p> <p>16 P.M.)</p> <p>17 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN</p> <p>18 COURT IN THE PRESENCE OF THE JURY:)</p> <p>19 THE COURT: All right. All jurors are back,</p> <p>20 both alternates back, trial counsel here.</p> <p>21 Plaintiff wish to call her next witness?</p> <p>22 MS. PARFITT: Yes, your Honor. At this time we</p> <p>23 would call Dr. Jack Siemiatycki.</p> <p>24 THE CLERK: Good afternoon, sir. Raise your</p> <p>25 right hand. Do you solemnly state that the testimony you</p> <p>26 may give in the cause now pending before this court shall</p> <p>27 be the truth, the whole truth, and nothing but the truth,</p> <p>28 so help you God?</p>	<p style="text-align: right;">Page 2074</p> <p>1 Q Do you treat patients?</p> <p>2 A No, I don't.</p> <p>3 Q Have you been asked to serve as an expert</p> <p>4 witness on behalf of Mrs. Echeverria and her family?</p> <p>5 A Yes, I have.</p> <p>6 Q Share with the ladies and gentlemen of the jury</p> <p>7 what your fields of expertise are and why you're here.</p> <p>8 A Well, shall I go into my training?</p> <p>9 Q No. Why don't you just briefly tell us what you</p> <p>10 are.</p> <p>11 A Well, I'm a professor, as I said, and so I</p> <p>12 teach. And the topics that I teach and do research in is</p> <p>13 called epidemiology. And this involves research into the</p> <p>14 causes of disease.</p> <p>15 Q Dr. Siemiatycki, in advance of coming and</p> <p>16 speaking with the ladies and gentlemen of the jury, did</p> <p>17 you prepare slides that would help assist and illustrate</p> <p>18 much of what you will be sharing with us today?</p> <p>19 A Yes, I have.</p> <p>20 Q All right. Jeff, if you would, kindly pull up</p> <p>21 Slide Number 2.</p> <p>22 Dr. Siemiatycki, there's a definition,</p> <p>23 epidemiologist. Tell us what it is and what it means.</p> <p>24 A Well, I'll read the definition that I wrote out,</p> <p>25 and I'll explain a little bit.</p> <p>26 Epidemiology is the science that investigates</p> <p>27 the occurrence of disease in human populations. It's</p> <p>28 concerned with describing the patterns of disease, like</p>

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<p>1 are the rates of certain cystic fibrosis higher in one 2 place than in another place? Are the rates of certain 3 cancers higher or lower? Are rates of cancer increasing 4 or decreasing in certain places? 5 So this is a description of the patterns of 6 disease occurrence. And it's also concerned with 7 identifying the factors that can cause disease, why the 8 diseases occur. 9 Q Dr. Siemiatycki, tell us, please, why did you 10 decide to become an epidemiologist. 11 A Well, I became an epidemiologist after I 12 completed my studies in mathematics and statistics and 13 was very motivated by social issues. And I wanted to 14 combine my training in mathematical sciences with some 15 way to help the world. 16 And I accidentally fell into epidemiology. A 17 professor guided me into a job in an epidemiology 18 department at McGill University in Montreal. And I 19 discovered this discipline that I had never heard of 20 before. And it was the perfect combination for doing 21 what I thought was useful -- socially useful work and 22 interesting, intellectually interesting work. 23 Q Before we go further into your testimony, what 24 I'd like to do is just address a few housekeeping issues. 25 Have you provided us with a copy of your 26 curriculum vitae or your resume? 27 A Yes, I have. 28 MS. PARFITT: With the Court's permission I</p>	<p>1 A I -- yes, I believe so. 2 MS. PARFITT: All right. If we could now mark 3 for identification Exhibit Number 567. 4 (WHEREUPON, TRIAL EXHIBIT NO. 567 WAS 5 MARKED FOR IDENTIFICATION.) 6 Q BY MS. PARFITT: May I ask you, Dr. Siemiatycki, 7 did you prepare a report in this case? 8 A Yes, I did. 9 MS. PARFITT: Your Honor, with the Court's 10 permission, I would ask that we publish Exhibit 567. 11 THE COURT: Any objection? 12 MR. CACHAN: No objection, your Honor. 13 THE COURT: All right. Thank you. 14 Q BY MS. PARFITT: The next page, please. 15 Dr. Siemiatycki, what is the date of your 16 preparation of your report in Ms. Echeverria's case? 17 A I see the date was October 4, 2016. 18 Q Dr. Siemiatycki, does this expert report present 19 the opinions and the bases of the opinions that you 20 expect to share with the ladies and gentlemen of the jury 21 throughout the course of your testimony? 22 A Yes, correct. 23 Q Dr. Siemiatycki, so that there's no suspense as 24 we move through the course of your testimony, share with 25 the ladies and gentlemen of the jury, if you will, what 26 is the opinion, the general opinion you intend to share 27 in this case? 28 A The general bottom line opinion is that, taking</p>
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<p>1 would just mark for identification Exhibit 569B, which is 2 Dr. Siemiatycki's curriculum vitae. 3 THE COURT: Very well. 4 (WHEREUPON, TRIAL EXHIBIT NO. 569B WAS 5 MARKED FOR IDENTIFICATION.) 6 MS. PARFITT: With the Court's permission, I 7 would like to publish Exhibit 569B. 8 THE COURT: Go ahead. 9 MS. PARFITT: Thank you. Apparently I'm having 10 a technical problem. 11 (A discussion is held off the record.) 12 MS. PARFITT: With the Court's permission -- 13 THE COURT: Just project. 14 MS. PARFITT: Let me project. All right. 15 Q BY MS. PARFITT: Could we have 569B on the 16 screen, please. Thank you, Jeff. 17 Dr. Siemiatycki, is that a summary of your 18 curriculum vitae? 19 A This seems to be a table of contents, and 20 next -- 21 Q Please go ahead. 22 A I was going to say the next page contains a kind 23 of a summary. 24 Q Did you prepare this document yourself? 25 A I prepared this document. 26 Q All right. And from my review of it, 27 Dr. Siemiatycki, it appears to be about 52 pages. 28 Is that about correct?</p>	<p>1 into account all elements of the evidence that were 2 available on October 4th, 2016, and that remain available 3 today, really, I think it is more likely than not that 4 exposure to talc in the genital area can cause ovarian 5 cancer. 6 Q Now, Dr. Siemiatycki, throughout the course of 7 the next -- the rest of the afternoon and probably 8 tomorrow morning, we will further explore the bases of 9 those opinions. But for right now, a couple of 10 questions. 11 You've talked about your opinion. Is that what 12 we refer to as a general causation opinion? 13 A I believe so. 14 Q Okay. And what do you understand to be the 15 difference between a general causation opinion and a 16 specific causation opinion? 17 A My understanding -- and I'm not a lawyer -- 18 MR. CACHAN: Objection, your Honor. Relevance 19 and calls for a legal conclusion. 20 MS. PARFITT: Your Honor, we can move forward. 21 That's fine. Thank you. 22 THE COURT: Overruled. Go ahead. 23 THE WITNESS: May I answer, your Honor? 24 THE COURT: Do you wish him to? 25 MS. PARFITT: I would. Yes, your Honor. 26 THE COURT: Go ahead, sir. 27 THE WITNESS: My understanding is that general 28 causation deals with the question of whether a certain</p>

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<p>1 factor is capable of causing a certain disease. In 2 general, is it capable of doing it? Whereas specific 3 causation arguments in a legal context refer to whether a 4 specific exposure caused the disease in a specific 5 person. 6 Q BY MS. PARFITT: Thank you, Doctor. 7 All right, let's pull up Slide Number 6, if you 8 will. 9 What I'd like to do for the next few minutes, 10 Dr. Siemiatycki, is just talk a little bit about you, 11 your educational experiences, and your professional 12 experience. All right? 13 A Yes. 14 Q Very good. 15 All right. Slide 6, please. 16 Tell the ladies and gentlemen of the jury what 17 your educational background is, Doctor. 18 A So, I have graduate degrees from McGill 19 University in Montreal in mathematics and statistics, and 20 then a doctorate, a Ph.D., degree in epidemiology. And 21 subsequent to that, I did what we call a postdoctoral 22 fellowship at an agency called the International Agency 23 for Research on Cancer. 24 A postdoctoral fellowship is an opportunity for 25 somebody who has done a Ph.D. or a doctorate to go and do 26 a kind of an apprenticeship with high-level researchers. 27 Q Doctor, is the acronym for that IARC, what is 28 referred to as IARC?</p>	<p>1 So next slide, Jeff, if you will. 2 What is statistics? 3 A Well, statistics is a branch of mathematics. It 4 deals with the collection, the analysis, the 5 interpretation, the presentation and the organization of 6 data. And data is everywhere in our lives, of course. 7 And whether you're an airline or a medical researcher or 8 a government department, everybody uses data. And the 9 manipulation of data, the treatment of data is 10 statistics. 11 Among other things, it provides the basis for 12 understanding the probabilities of different events, and 13 events such as the occurrence of disease in different 14 populations. 15 Q Thank you. I understand you're not a medical 16 doctor and you do not treat patients, but do your degrees 17 in statistics and your postdoc in epidemiology, does that 18 prepare you to conduct research and discover causes of 19 diseases? 20 A Yes, it does. That's generally recognized. 21 Q And how long have you been doing that? 22 A I've been doing it now for over 40 years. 23 Q Provide us with your current position at the 24 universities. 25 A So I am in Montreal. I'm at the University of 26 Montreal and at McGill University. I have 27 appointments -- faculty appointments at both 28 universities. And I'm a full professor.</p>
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<p>1 A Yes. It's the International Agency for Research 2 on Cancer. 3 Q I think the ladies and gentlemen of the jury 4 will be hearing that term throughout the course of your 5 testimony. 6 So you did your postdoctoral fellowship at IARC? 7 A Yes, I did. 8 Q And you were there how long? 9 A Two years at that time. 10 Q And what did you study? 11 A Well, I was involved in a few research projects 12 while I was there. One of them concerned a type of 13 cancer called Burkitt's lymphoma, which afflicts mainly 14 children and has a very high -- particularly high 15 incidence in Africa. 16 And the theory that was prevalent at the time 17 was that it could be caused by a combination of a virus 18 and infection with malaria. And the agency that I was 19 at, the IARC, embarked on a study to investigate this 20 hypothesis. And I was involved in a few aspects of that 21 research. 22 Q Dr. Siemiatycki, as I appreciate it, IARC is one 23 of the top centers in the world for cancer epidemiology. 24 Is that true? 25 A That's true. 26 Q We know a little bit right now about 27 epidemiology, part of your life. You're also a 28 statistician, where you have a degree in statistics.</p>	<p>1 Q There's something on your resume that talks 2 about the Cancer Research Society, the Guzzo Research 3 Chair in Environmental Cancer. What is that, and what is 4 that position? 5 A A benefactor to the university has endowed what 6 they call a research chair. That means they have put up 7 private money to support research on the environmental 8 causes of cancer. And the university chose me to be the 9 recipient of this fund, this chair, to do research and to 10 have a research team. 11 Q Congratulations. 12 A Thank you. 13 Q Now, you serve as a professor not only at the 14 University of Montreal but also McGill; correct? 15 A Yes. Correct. 16 Q In your resume it indicates that you teach not 17 only epidemiology but also biostats and occupational 18 health; correct? 19 A Yes. 20 Q Tell us what occupational health is, and, with 21 that, what public health is and if there's any 22 distinction. 23 A Yeah. More generally, public health is the 24 application of various principles to monitoring the 25 health of the population and to improving the health of 26 the population. So whether it's organizing vaccination 27 campaigns or antismoking campaigns or trying to monitor 28 whether there are bedbugs in certain areas of the city</p>

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<p>1 that need to be dealt with, all of these kinds of issues 2 come up in public health, and public health agencies deal 3 with a tremendous variety of these kinds of issues. 4 Occupational health deals more specifically with 5 the occupational environment. And it combines both 6 dealing with groups of workers and plants and factories 7 and with treating individual workers when they have 8 certain diseases that are specific to occupational 9 chemicals or things like that. 10 Q What I'd like you to do for just -- briefly -- 11 is share with all of us an overview of the types of 12 activities that you've been involved as a professor at, 13 frankly, both of these two universities. 14 And, Jeff, if you would, I believe it's Slide 9. 15 A So I would say that the main activities that 16 have defined my professional life have been research, 17 teaching and supervising graduate students, participating 18 in the processes of review of grant applications and 19 review of manuscripts, and advising governments and 20 agencies. 21 And going back to the research topic, 22 conducting -- being a researcher, a university 23 researcher, involves different types of activities. It 24 includes, first of all, developing research projects, 25 having ideas and planning it in a way that is valid and 26 that you can obtain funding from -- from funding 27 agencies, usually governmental, but often private, like 28 the American Cancer Society or other agencies that</p>	<p>1 you have. And over my career -- and it's important to 2 publish in places where there is real peer review. 3 What we mean by peer review is that the articles 4 that you submit for publication are reviewed by other 5 researchers who are recognized and who accept the 6 validity of what we put into a research paper. 7 So these are called peer-reviewed publications 8 or peer-reviewed journals. And I've had about 230 such 9 publications; a number of other reports for agencies and 10 publications in venues that were not peer-reviewed, about 11 50; presentations at conferences and in research 12 institutes, about 340; grants that I've received to do 13 research, about 93. 14 And finally there's a ranking system for 15 researchers. And in a publication -- in an analysis 16 carried out in Canada by a research agency that monitors 17 the performance of different researchers in Canada, they 18 broke it down according to the sector of research. And 19 in the public health sector, I was rated the top -- the 20 most published, the most impactful researcher in the 21 country. 22 Q Thank you. In addition to these types of 23 accomplishments that you have, there are other indicators 24 in your world of epidemiology and research and academia 25 that talk about what your standing is in the community. 26 And, Jeff, if you will, bring up 27 Slide Number 11. 28 Okay. What does this mean, "selected indicators</p>
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<p>1 provide funding to researchers. 2 It involves conducting the research, organizing 3 it in a practical way, supervising research assistants 4 and students who are doing Ph.D.s and things like that, 5 and then publishing and presenting the research in 6 journals or at conferences or in other places. 7 Q And you do that not only here in the United 8 States but around the world? 9 A Yes, I do. 10 Q Continue. I'm sorry. I didn't mean to 11 interrupt. 12 A Well, I was really nearly finished. I don't -- 13 I don't think I will elaborate on any of those other 14 points now. 15 Q Very good. In the interest of time, we'll go 16 with you on that. All right. In addition to these types 17 of activities that you've performed on behalf of the 18 university over the last 40 years or so, could you share 19 with us just a summary list of your accomplishments not 20 only as a scientific researcher but as a professor, a 21 mentor, a collaborator. 22 And if you will, Jeff, bring up Slide 9. Excuse 23 me. It's 10. 24 A Well, there are different ways to quantify the 25 performance or the accomplishments of a university 26 research professor. And these are just some of the 27 elements that can be quantified. One of the major tasks 28 of a researcher is to publish the research results that</p>	<p>1 of standing"? 2 A Well, I selected out of my curriculum vitae 3 certain things that indicate the -- I guess the respect 4 that other -- that others would have for me as a 5 researcher. I'm often -- I've often been invited by 6 government health departments, by other universities -- 7 Q Let me interrupt you there. When you talk about 8 government health departments and agencies, are you 9 talking just in Canada or around the world or in the 10 United States? 11 A I'm talking about around the world. It would 12 include the National Cancer Institute of the United 13 States, it would include Johns Hopkins University, it 14 would include agencies in Germany, it would include in 15 France, in Canada, in many different countries. 16 And there have been -- I've served on about 150 17 such panels or committees as an adviser. 18 Q And is the topic -- you've talked a bit about 19 the agencies that you do work for or you provided 20 research efforts to support. Are these -- what are the 21 areas of scientific research that you've been focusing 22 on? Is it cancer? Is it -- what is it? 23 A Most often they've invited me to advise them 24 about issues regarding the causes of cancer, 25 environmental causes of cancer, occupational causes of 26 cancer. But I've been invited to look at such diverse 27 topics as pesticide spraying and the effects -- the 28 possible effects on birth defects among the sprayers and</p>

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<p>1 their families. I've been invited to look at the 2 effects -- at even things like vaccination for hepatitis 3 and possible risk of neurological problems, like multiple 4 sclerosis, that some people claim could be a result of 5 vaccination. 6 So it's been a great variety of topics that 7 people have called on me to review as an expert, not 8 necessarily because I have experience or expertise in the 9 particular topic, but because I'm recognized as an expert 10 in the methodology of epidemiologic research, and 11 reviewing epidemiologic research on a broad variety of 12 topics is part of my routine. 13 Q Okay. So you're not limited to just research 14 and providing those research efforts for just a single 15 type of cancer, but across the board, the vast number of 16 them? 17 A Yes. 18 Q Unfortunately, that visit all of us? 19 A Yes. 20 Q Now, what I'd like to do is turn, if I could, to 21 your curriculum vitae. 22 Jeff, that is -- 23 Well, first let me ask you, you talked about 24 having about 230 peer-reviewed publications; correct? 25 A That's right. 26 Q All right. Let's turn to your curriculum vitae, 27 page 10. And that would be Exhibit Number 569B, page 10. 28 Now, Dr. Siemiatycki, in advance of coming</p>	<p>1 Court's -- 2 A Yes, it's not something that is part of my 3 normal curriculum vitae. 4 Q You're far more pristine. 5 A Thank you. So first off I would point -- should 6 I -- 7 Q If you can -- and, again, real briefly, we have 8 got a lot of ground to cover, so just give us the 9 highlights. 10 A Okay. So Number 6 in this list is an article 11 that concerned how to conduct research, how to approach 12 people in -- if you're doing a community health survey 13 and whether to approach them by mail, by telephone, in 14 person. What are the benefits? What is the validity of 15 the information that you get in your answers, whether 16 it's from different ways of asking the question? Things 17 like this. 18 And I highlighted this because I've always been 19 interested in the methods of data collection in research 20 because that is an important part of -- that influences 21 the results that you get. And you have to understand the 22 validity of the methods that you use in order to 23 understand the results. 24 The second one, Number 9, is an article that was 25 published in a very prestigious journal called New 26 England Journal of Medicine, and it involved an 27 evaluation of national health insurance in Canada. So 28 the debates that you folks are having here in the states,</p>
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<p>1 today, did I ask that you look through your curriculum 2 vitae and perhaps identify for the Court and jury a few 3 of the types of publications that would somehow, in a 4 short period of time, perhaps give all of us a better 5 sense of what it is that you do and the kinds of projects 6 you do and the kinds of studies you work on and the 7 designs of studies? 8 A Yes, you did. 9 Q All right. So have you done that? 10 A Yes, I have. 11 Q You've done your homework? 12 A Yes, I have. 13 Q Okay. Very good. 14 If you will just select a few. And, again, our 15 jurors had a long day, so if you could just maybe just 16 highlight a few of them and tell us what that tells us 17 about you. 18 A Thank you. I'll take a few from the beginning 19 of my career, a few from the end of my career -- well, 20 not the end, hopefully -- this middle part of my career 21 and -- just to illustrate the span of time. I also -- 22 Q And we can't go through all 230. I know it's 23 been a long career. 24 A I wouldn't want to inflict that on anyone. 25 Q Just the highlights. 26 A I would like to point out -- I don't know if the 27 jury is aware that these blackened-out sections in my -- 28 Q It's something that had to do pursuant to the</p>	<p>1 we had them about 30 years ago in Canada. And there were 2 issues about whether that -- the introduction of national 3 health insurance actually improved health or improved 4 access to care. 5 And this was an article that looked at that 6 question. And we indicated that it's certainly -- that 7 national health insurance in Canada equalized the access 8 to care across different social classes in Canada. 9 We published this article. A few years later -- 10 or actually very soon later, I was contacted by the staff 11 of a U.S. senator called Senator Kennedy, who -- and his 12 team used this information as part of their debates in 13 Washington concerning healthcare in the United States. 14 Q Okay. 15 A Number 11 -- that will be the last one from this 16 early period -- is an article that concerns a new 17 approach to the problem of how to discover occupational 18 causes of cancer. It was an issue that I started working 19 on during my postdoctoral fellowship in IARC. And I 20 developed a quite novel way to address the problem of 21 how -- there are so many thousands of chemicals in the 22 environment. It's so difficult to evaluate them one at a 23 time. How can we accelerate the process? 24 And I developed a methodology to do this. And 25 that methodology has been very influential in how 26 research on occupational cancer has developed over the 27 past 30 years around the world. 28 Q Very good. Let's fast-forward again in your</p>

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<p>1 life.</p> <p>2 A Okay.</p> <p>3 Q Okay.</p> <p>4 A Number 29 is one that just shows that I've</p> <p>5 carried out what we call cohort studies, because you'll</p> <p>6 hear about cohort studies as one type of epidemiologic</p> <p>7 study. This was a study carried out in the fur industry</p> <p>8 in Montreal. A physician who treats chest diseases in</p> <p>9 Montreal told me that he thought that he had seen several</p> <p>10 cases of lung cancer among fur workers. And after a</p> <p>11 while, I decided to investigate this.</p> <p>12 We carried out a study. And we found, actually,</p> <p>13 that once you compiled the statistics properly, there was</p> <p>14 no excess risk. There was no increased risk of lung</p> <p>15 cancer among the fur workers.</p> <p>16 Q All right. Let's keep moving here.</p> <p>17 A And I'll skip to Number 63, please. This is a</p> <p>18 study about smoking and cancer. And I've carried out</p> <p>19 studies on smoking and cancer. This was an article that</p> <p>20 described the results of what is the relationship between</p> <p>21 smoking and about 12 different kinds of cancer, including</p> <p>22 lung cancer and esophagus cancer and various others.</p> <p>23 And so this was based on what we call a</p> <p>24 case-control study. And this is another type of study</p> <p>25 that I have carried out and been involved with. And one</p> <p>26 of the interesting things that came out of this study was</p> <p>27 the results that came out of this case-control study --</p> <p>28 and you'll hear a little bit more about what that</p>	<p>1 of statistic. But, apparently, for that year, this was</p> <p>2 number the one media article from the medical science</p> <p>3 point of view.</p> <p>4 And maybe I'll end up with Number 173 --</p> <p>5 Q I'd like to have you look at -- go ahead. 173,</p> <p>6 let's do it.</p> <p>7 A So 173 is an article about the risk of several</p> <p>8 types of cancer and a group of chemicals called</p> <p>9 chlorinated solvents. And we looked at the</p> <p>10 relationship -- the possible relationship between each</p> <p>11 solvent used in occupational workplaces and different</p> <p>12 types of cancer. And the results were that we didn't</p> <p>13 really find any associations there. And why do I -- why</p> <p>14 did I publish it and why do I highlight this? Because,</p> <p>15 in my practice, in my philosophy, in my teaching, I</p> <p>16 emphasize that results of no association are as important</p> <p>17 as results of associations.</p> <p>18 We are not here just to find out what causes</p> <p>19 disease; we are also here to find out what is safe and</p> <p>20 what people can feel easy about using and being exposed</p> <p>21 to and putting the priorities for action on those things</p> <p>22 that are dangerous. And sometimes it's a bit of a</p> <p>23 struggle to publish work that is not -- where you don't</p> <p>24 show associations, but it's always been an article of</p> <p>25 principle for me to always publish the results no matter</p> <p>26 what they are.</p> <p>27 Q You've talked about various forms of cancer.</p> <p>28 I've not heard you talk about any publications on ovarian</p>
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<p>1 means -- were almost identical to the results that come</p> <p>2 out of cohort studies of smoking and cancer.</p> <p>3 And it's not surprising because, actually,</p> <p>4 there's a great theoretical link between case-control</p> <p>5 studies and cohort studies. And from a theoretical point</p> <p>6 of view, we expect them to give the same answer. So it</p> <p>7 was reassuring that, in practice, this is what happened.</p> <p>8 Q All right. And we will talk about those types</p> <p>9 of studies a little bit further. Why don't we move you</p> <p>10 along here. And if you want to just select a couple more</p> <p>11 and then we will go on to another topic.</p> <p>12 A Maybe Number 149. This -- this is a study of</p> <p>13 brain cancer and cell phones. And this was a topic that,</p> <p>14 as you know, has become very, very hot and interesting --</p> <p>15 people are very concerned about it -- and controversial.</p> <p>16 And I was part of a group -- an international group that</p> <p>17 carried out a big international collaboration to study</p> <p>18 this topic. And, really, this can be considered a pooled</p> <p>19 study. And you'll hear a little bit about pooled</p> <p>20 epidemiologic studies.</p> <p>21 This study was actually the biggest study ever</p> <p>22 conducted on cell phones and lung cancer. And it -- it</p> <p>23 was -- this particular article about the study was, in</p> <p>24 the year 2010, the most quoted scientific article or</p> <p>25 medical-scientific article in the nonmedical media.</p> <p>26 So every newspaper in the world, every radio</p> <p>27 station, TV station, quoted the results. I -- I didn't</p> <p>28 compile that. I don't know how people compile that kind</p>	<p>1 cancer, something that our jury is -- has heard quite a</p> <p>2 bit about. Have you published in that area, on ovarian</p> <p>3 cancer?</p> <p>4 A I've published -- I've been involved in a couple</p> <p>5 of publications around ovarian cancer and also an</p> <p>6 international evaluation of ovarian cancer and talc, as</p> <p>7 it happens. But those other -- one of the publications</p> <p>8 concerned ovarian cancer and talc, and another one</p> <p>9 concerned hormonal factors in ovarian cancer.</p> <p>10 Q Are there any others you'd like to highlight</p> <p>11 before we move on? Have we done a fairly good job of</p> <p>12 highlighting your career?</p> <p>13 A I thought I might just mention Number 209.</p> <p>14 Q Please.</p> <p>15 A Number 209, which is an article, quite recent,</p> <p>16 about consumption of coffee and tea and the risk of lung</p> <p>17 cancer, because there -- there were some publications</p> <p>18 that seemed to show possible increases in risk among</p> <p>19 people who consumed these things. And we found</p> <p>20 absolutely no association. And in line with the</p> <p>21 principle I just mentioned, we published that result.</p> <p>22 And for the -- there really is no association</p> <p>23 with coffee. You can continue to drink tea and coffee</p> <p>24 safely, at least as far as cancer is concerned.</p> <p>25 Q And I raised whether or not you had published on</p> <p>26 ovarian cancer. And I see on your curriculum vitae,</p> <p>27 there is one, 219. Is that the article that you might</p> <p>28 have been referring to?</p>

20 (Pages 2091 to 2094)

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<p>1 A Yes, this is the one that I was referring to</p> <p>2 that is an article that was carried out by a colleague of</p> <p>3 mine, a young colleague of mine. And I was one of the</p> <p>4 people supporting her. I was kind of a mentor at the</p> <p>5 beginning of her career. And she carried out a study of</p> <p>6 ovarian cancer and has published this paper about</p> <p>7 different hormonal and reproductive factors in relation</p> <p>8 to ovarian cancer.</p> <p>9 Q All right. Very good.</p> <p>10 Now, Doctor, we've talked a bit about your</p> <p>11 peer-reviewed publications. You've told us what</p> <p>12 peer-reviewed is. Have you prepared or been the author</p> <p>13 of any books or book chapters?</p> <p>14 A I've been the author of one complete book</p> <p>15 concerning occupational causes of cancer, chemicals --</p> <p>16 Q What's the title of that book? I'm sorry.</p> <p>17 A It's called "Risk Factors for Cancer in the</p> <p>18 Workplace."</p> <p>19 Q Thank you.</p> <p>20 A And I think it's...</p> <p>21 Q I believe it's on page 27 of your CV.</p> <p>22 A Yes, yes. This was a book that covered a broad</p> <p>23 area of methodology, how to conduct research in this</p> <p>24 area, different designs of epidemiologic studies, how to</p> <p>25 evaluate the exposures of workers, how to statistically</p> <p>26 analyze data. And it provided a lot of results from our</p> <p>27 studies of occupational causes of cancer.</p> <p>28 Q Now, Dr. Siemiatycki, I was actually delighted</p>	<p>1 do is go to Slides 13 first. And if you could tell us --</p> <p>2 again, briefly, quickly -- what type of advisory</p> <p>3 committees and activities that you've been involved in.</p> <p>4 A The advisory committees, I think, is on a</p> <p>5 different slide.</p> <p>6 Q Yes. Excuse me.</p> <p>7 Jeff, if we could go to 12, if you will.</p> <p>8 There you go.</p> <p>9 A So I mentioned that I've been invited to serve</p> <p>10 on about 150 different committees and consultations of</p> <p>11 various sorts. This is just a sampling of those. I was</p> <p>12 an adviser to the Canadian Department of Health when the</p> <p>13 new Canadian Environmental Protection Act was created.</p> <p>14 And there were various issues of how they should set</p> <p>15 their priorities for action.</p> <p>16 I was a member of an agency called the</p> <p>17 International Joint Commission, which is a Canada-U.S.</p> <p>18 body that regulates and evaluates issues of the</p> <p>19 environment along the border between Canada and the U.S.</p> <p>20 So the Great Lakes and water quality and the health</p> <p>21 impact of pollution comes under that -- that umbrella.</p> <p>22 And I was on the health committee of that commission.</p> <p>23 I've been an adviser to the United States</p> <p>24 National Cancer Institute on several occasions, sitting</p> <p>25 as an adviser on their research projects, one concerning</p> <p>26 cell phones and brain cancer, and another concerning a</p> <p>27 chemical called benzene and evaluation of its</p> <p>28 carcinogenicity, and one concerning diesel engine</p>
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<p>1 to see, when I was reading your CV, that, in addition to</p> <p>2 that book, you have published and are the author of a</p> <p>3 couple other books; is that correct?</p> <p>4 A Well, not cancer books.</p> <p>5 MR. CACHAN: Objection, your Honor. Relevance.</p> <p>6 Q BY MS. PARFITT: Why don't you tell us about it.</p> <p>7 THE COURT: What is the relevance?</p> <p>8 MS. PARFITT: Your Honor, he is a publisher. I</p> <p>9 think it's important to establish that, in addition to</p> <p>10 his book on risk factors, he's also published in an area</p> <p>11 of -- it's on his resume.</p> <p>12 THE COURT: Sustained about that.</p> <p>13 Go ahead.</p> <p>14 Q BY MS. PARFITT: Dr. Siemiatycki, have you been</p> <p>15 the author of books other than books on occupational</p> <p>16 medicine?</p> <p>17 A Yes, I have.</p> <p>18 Q What types of books?</p> <p>19 A I've authored a couple of children's books.</p> <p>20 THE COURT: Counsel, I said sustained.</p> <p>21 MS. PARFITT: I thought I laid a foundation,</p> <p>22 your Honor. That's my error. I won't do it again.</p> <p>23 Sorry.</p> <p>24 THE COURT: That's okay.</p> <p>25 Q BY MS. PARFITT: Let's move forward, then.</p> <p>26 You have talked -- in addition to your</p> <p>27 publications, you have also published on -- as part of</p> <p>28 scientific committees and panels. And what I'd like to</p>	<p>1 emissions and cancer and evaluations of different groups</p> <p>2 in that agency as an outside referee of their</p> <p>3 performance.</p> <p>4 I've been an adviser to the World Health</p> <p>5 Organization on multiple occasions. The IARC agency,</p> <p>6 which you've heard about a little bit earlier, has --</p> <p>7 you'll hear about this a little more. It has a</p> <p>8 scientific council of about 20 members who are named by</p> <p>9 the member countries. I was the representative of Canada</p> <p>10 on that council for two years. And I was the chairman</p> <p>11 of that council for two of those years, elected by the</p> <p>12 other members of the -- of the council. And the</p> <p>13 scientific council has responsibilities to oversee the</p> <p>14 scientific activities of IARC.</p> <p>15 I've been on the -- Canada has an agency called</p> <p>16 the National Cancer Institute. And I was on the board of</p> <p>17 directors of that for maybe 10 years. I've been on</p> <p>18 the -- the chairman of a scientific council of a very</p> <p>19 large French population cohort project that is starting.</p> <p>20 They're enrolling 200,000 French people, and they're</p> <p>21 collecting a lot of information about them. They're</p> <p>22 monitoring them regularly and following them up to see</p> <p>23 what kind of diseases they may have developed and</p> <p>24 relating their environment and their lifestyles to</p> <p>25 diseases that may occur later on. This is going to go on</p> <p>26 for several decades. And I'm the chair of this --</p> <p>27 chairman of the scientific council.</p> <p>28 I've been -- the last item I'll mention -- there</p>

21 (Pages 2095 to 2098)

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<p style="text-align: right;">Page 2099</p> <p>1 was, about 15 years ago -- 20 years ago, maybe -- a bit 2 of a controversy in California around possible cancer 3 risks in the Simi Valley area north of L.A. because of a 4 large industrial facility that is owned by the Boeing 5 company. But in the 1950s and '60s -- 6 MR. CACHAN: Objection, your Honor. I'm sorry 7 to interrupt the witness. But, at this point, relevance, 8 and I think the witness has been amply qualified. And 9 this is cumulative. In the interest of time, we should 10 move on. 11 THE COURT: Overruled. Counsel can use her time 12 as she wishes to. 13 MS. PARFITT: Thank you, your Honor. 14 THE WITNESS: Just to finish on that, the 15 workers in that facility and the United Auto Workers -- 16 the company agreed with strong pressure actually from the 17 state legislature to carry out some studies because of 18 the chemical spills in that area in the 1950s and '60s. 19 And I'm sorry I was interrupted, but I was going to say 20 this is the place where NASA's rockets were built. This 21 is the place where the U.S. rocket program was really 22 developed and its infrastructure was created. 23 And that was a large industrial process that 24 involved a lot of chemicals and radiation. And nobody 25 lived near it in those days, in the '50s and '60s, but as 26 Los Angeles has moved -- in every direction, I guess, but 27 moved north, it has come up close to the fence of this 28 facility. And by the 1990s, people were concerned that</p>	<p style="text-align: right;">Page 2101</p> <p>1 which has an annual distinguished science lecture branch 2 of epidemiology and genetics, invited me to give that 3 lecture one year. 4 In the 1990s, President Clinton had a special 5 blue-ribbon panel on cancer to advise him on cancer 6 policy. And I was invited to address them to talk about 7 priorities in cancer research. 8 The Medical Research Council of Canada gave me a 9 distinguished scientist award one year. 10 I was president of the Canadian Society for 11 Epidemiology and Biostatistics. 12 I was on the board of directors of the American 13 College of Epidemiology. 14 I'm a fellow of what they call the Canadian 15 Academy of Health Sciences, which is an organization that 16 is run by health scientists. And they elect people to 17 become fellows of their academy. 18 And, finally, the Canadian Society for 19 Epidemiology and Biostatistics saw fit to give me a 20 lifetime achievement award a few years ago. 21 Q And you're still just 25? 22 A Yes. 23 Q All right. Briefly, we're going to try and wrap 24 this up, at least this part of your life, 25 Dr. Siemiatycki. 26 In addition to the research positions that 27 you've held and all the other things that you've shared 28 with us, do you have -- are you yourself in charge of</p>
<p style="text-align: right;">Page 2100</p> <p>1 the water table was contaminated and the air and so on. 2 So there was a lot of pressure from the state to carry 3 out studies to see whether the chemicals that were used 4 there were dangerous or not. 5 And so a committee was mandated by the company 6 and the union to carry out studies among the workers, 7 first of all. And a committee of six people, 8 international, was named to oversee this so that there 9 would be no possibility of bias one way or another or 10 conflict of interest. And I was on that committee to 11 oversee the design of the study and how -- who carried it 12 out and so on. 13 Q BY MS. PARFITT: Very good. All right. Let's 14 move to the issue of honors and that type accomplishment. 15 Have you received any honors in your field, 16 Dr. Siemiatycki? 17 And, Jeff, if you would, kindly bring up Slide 18 Number 13. Slide 13. 19 All right. If you will, again, just review for 20 the ladies and gentlemen of the jury the honors that 21 you -- selected honors, I should say, that you've 22 received. 23 A Yeah. I mean, you know, I feel like my life is 24 an honor. I feel like everything that has happened has 25 been, you know, by the grace of God or something. I feel 26 very blessed with many things in my career and family. 27 But some of the sort of official honors that 28 I've been granted, the U.S. National Cancer Institute,</p>	<p style="text-align: right;">Page 2102</p> <p>1 having editorial-type responsibilities for other people's 2 work? 3 A Yes, I am. 4 Q Why do you do that? 5 A Why? Because it's a responsibility. When I get 6 to publish papers, it means other people have taken time 7 to review those papers. When I get grants from a funding 8 agency, it means other people have been sitting on 9 committees and reviewing grants that have made those 10 decisions. And I've got to give back -- I've got to be 11 part of that process. 12 So I also sit on review committees for journals 13 and for granting agencies. 14 Q And approximately how many editorial journal 15 boards do you sit on? 16 A I think it's on the slide. I actually don't 17 remember the numbers. 18 Q Okay. We went over it before. I guess more 19 than 10? More than 20? 20 A Yes. 21 Q Okay. Fair enough. 22 A More than 30, 40, 50, 60. Something like that. 23 Q In sitting as an editorial reviewer, is your 24 charge to review the work of other scientists so that you 25 can make decisions with regard to the validity and the 26 correct methodology of those papers? Is that what you 27 do? 28 A That's right. That's right. So whether it's</p>

22 (Pages 2099 to 2102)

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<p style="text-align: right;">Page 2103</p> <p>1 sitting on a journal review or a grant review, you're</p> <p>2 reading either a manuscript for publication or a grant</p> <p>3 application and you're trying to decide if the</p> <p>4 methodology is valid and whether -- and whether the topic</p> <p>5 is worth investigating, but mainly, reviewing the</p> <p>6 methodology.</p> <p>7 And in my reviewing career, there's been a</p> <p>8 tremendous range of topics that have been covered. Not</p> <p>9 just cancer, not just environmental, but many, many</p> <p>10 different topics have come up.</p> <p>11 Q Looking at the whole scope of generally what</p> <p>12 you've just been talking about for about 45 minutes or</p> <p>13 so, Dr. Siemiatycki, how would you describe and summarize</p> <p>14 the nature of the work that you do, day in and day out?</p> <p>15 In what areas? How do you capture your -- your career?</p> <p>16 A Well, I'm -- I'm an epidemiologist with</p> <p>17 statistical training. I have strong interest in</p> <p>18 methodology of research and in -- I have knowledge of</p> <p>19 cancer risk factors for environmental -- risk factors for</p> <p>20 cancer. And I have the ability to review epidemiologic</p> <p>21 work in many different areas.</p> <p>22 * [4:23 P.M.] *</p> <p>23 MS. PARFITT: Your Honor, I'm at a place where I</p> <p>24 think it might be best that we stop before I get into</p> <p>25 another topic.</p> <p>26 THE COURT: All right.</p> <p>27 MS. PARFITT: With the Court's permission, of</p> <p>28 course.</p>	<p style="text-align: right;">Page 2105</p> <p>1 but I will certainly --</p> <p>2 THE COURT: I have to rule on it on Monday, so</p> <p>3 it would be good if it were on file tomorrow.</p> <p>4 MS. DUNNE: We'll plan on it.</p> <p>5 THE COURT: All right. Secondly, we have this</p> <p>6 issue of the request to call Dr. Jameson. You filed your</p> <p>7 papers.</p> <p>8 Defense ready to argue about that?</p> <p>9 MR. WILLIAMS: We'd prefer to argue it tomorrow</p> <p>10 morning, if we could, your Honor, because we've been here</p> <p>11 all day and haven't had a chance to review it.</p> <p>12 THE COURT: I understand. We'll do that first</p> <p>13 thing in the morning.</p> <p>14 Anything else anybody needs to take up?</p> <p>15 MS. PARFITT: Your Honor, just one thing. I'm a</p> <p>16 guest in the court. I take that very seriously. I</p> <p>17 certainly did not mean to be disrespectful. I thought</p> <p>18 you were asking me to set a foundation, so I apologize.</p> <p>19 THE COURT: You may not have heard me. I did</p> <p>20 not take it as disrespectful at all.</p> <p>21 MS. PARFITT: Thank you. I just wanted to let</p> <p>22 the Court know. Thank you.</p> <p>23 THE COURT: I said sustained based on the offer</p> <p>24 of proof. I did not take it disrespectfully.</p> <p>25 MS. PARFITT: Well, thank you, your Honor.</p> <p>26 MS. GUTIERREZ: Two last points. The first is</p> <p>27 counsel had stated or -- at the lunch hour they were</p> <p>28 going to review and provide us the citations for the</p>
<p style="text-align: right;">Page 2104</p> <p>1 THE COURT: Okay. We'll take our recess for the</p> <p>2 afternoon. Ladies and gentlemen of the jury, please</p> <p>3 leave your notes here. Please recall that your notes are</p> <p>4 for your use only. At this time, please don't do any</p> <p>5 research, don't discuss the case with others or amongst</p> <p>6 yourselves. Please don't form any opinions until you've</p> <p>7 heard all the evidence.</p> <p>8 Please have a nice evening, and we will see you</p> <p>9 in the morning.</p> <p>10 (Jurors excused.)</p> <p>11 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN</p> <p>12 COURT OUTSIDE THE PRESENCE OF THE JURY:)</p> <p>13 THE COURT: Doctor, you are welcome to step</p> <p>14 down.</p> <p>15 THE WITNESS: Thank you. Can I leave these</p> <p>16 binders here?</p> <p>17 THE COURT: You can leave anything you want</p> <p>18 here, actually, if you don't need it tonight. It will be</p> <p>19 locked up.</p> <p>20 THE WITNESS: Thank you.</p> <p>21 THE COURT: All right. So, one administrative</p> <p>22 piece from this side. The plaintiff filed -- no, the</p> <p>23 defense filed this motion about the proper law on</p> <p>24 punitive damages. You filed an opposition to that.</p> <p>25 Are you going to file a reply? And if so, when?</p> <p>26 Whoever is in charge of that.</p> <p>27 MS. DUNNE: Well, I can answer. We're filing a</p> <p>28 reply. I don't know whether it can be on file tomorrow,</p>	<p style="text-align: right;">Page 2106</p> <p>1 portions in the record where they claimed that</p> <p>2 Dr. Godleski has previously testified about the size of</p> <p>3 talc particles in connection with pleurodesis. We've not</p> <p>4 received that, and we still move to strike that</p> <p>5 testimony.</p> <p>6 MR. WILLIAMS: We would just like a time, your</p> <p>7 Honor, by which they'd give it to us.</p> <p>8 THE COURT: They've also been here.</p> <p>9 MR. WILLIAMS: Oh, understood. We got the</p> <p>10 impression that they had a cite when Mr. Dearing came up</p> <p>11 and represented that he did.</p> <p>12 MR. DEARING: I had a cite for the other issue</p> <p>13 we were discussing. I just forgot over the lunch break.</p> <p>14 I'm sorry, your Honor. I can address that tomorrow.</p> <p>15 THE COURT: All right. We'll take that up in</p> <p>16 the morning.</p> <p>17 MS. GUTIERREZ: Also, your Honor, just with</p> <p>18 respect to the second issue, the disappearing/subsumed</p> <p>19 inflammation issue, we would also like to receive the</p> <p>20 citations that plaintiff's counsel believes have been</p> <p>21 raised in prior trials at some reasonable time this</p> <p>22 evening, say 7 o'clock, so that we can prepare a</p> <p>23 response.</p> <p>24 MR. DEARING: As I remember, the Court</p> <p>25 instructed us to discuss it. I'm still not even sure</p> <p>26 what that issue is yet.</p> <p>27 THE COURT: Well, I would like you to discuss it</p> <p>28 and with the transcript in hand. I think that was part</p>

23 (Pages 2103 to 2106)

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<p style="text-align: right;">Page 2107</p> <p>1 of the issue, is that counsel wanted to see the 2 transcript. And I imagine Carolyn will get the 3 transcript to you sometime this evening. She's been 4 pretty good about that. 5 MR. WILLIAMS: Thank you, your Honor. 6 MS. PARFITT: Thank you, your Honor. 7 THE COURT: All right. Have a nice evening, 8 everybody. 9 MS. ZUKIN: What time tomorrow? 10 THE COURT: We will, as always, try for 9:30. 11 Nancy is looking at something. Hold on a second. 12 THE CLERK: I'm looking to see what we have on 13 the calendar. By 9:30, I guess, should be fine. 14 THE COURT: All right. 15 (A discussion is held off the record.) 16 THE COURT: Issue re exhibits. All counsel, 17 please listen to Nancy. 18 THE CLERK: Okay. So I've had, I guess, 19 different clerks covering me request different -- have 20 their preferences regarding exhibits because they didn't 21 know. 22 I've talked to representatives of both sides and 23 we are, I think, squared away as to how we're going to 24 handle the exhibits. So can I ask if I can return 25 everything that has been given to me as of right now and 26 agree to clean up the exhibit issue with counsel as we 27 discussed earlier today? Can I return everything? 28 Because everything has only been identified. Nothing has</p>	<p style="text-align: right;">Page 2109</p> <p>1 There is way too many exhibits for us to wait. 2 So on a daily basis, if we can have at least what's 3 stipulated, because we know for sure that's going to the 4 jury. And this way we're not taking up a lot of time in 5 the end marking and labeling everything to give to the 6 jury at the last minute. 7 It will take me a day to give to the jury and 8 then the jury will be sitting there wondering where the 9 exhibits are. 10 So if we can keep it up on a daily basis, it 11 will be much better. 12 MR. ROBINSON: So you are going to give us back 13 the exhibits? 14 THE CLERK: I want to give everything that's 15 been marked so far -- and I want an accounting for every 16 day. So if I can have separate stipulations for the past 17 week that I haven't been here, of what -- and I think 18 Mr. Soldridge agreed he would do his part. And I think 19 someone on plaintiff's side -- 20 MR. ROBINSON: Diana Folia. 21 THE CLERK: Diana. 22 MS. ZUKIN: Are you requesting that we 23 physically take custody of the exhibits, take them back? 24 THE CLERK: Whoever exhibits -- if you guys 25 want to take them back, they were just identified. 26 Nothing, from my understanding, was ever admitted. 27 MS. ZUKIN: We did move some into evidence, 28 depending on the day.</p>
<p style="text-align: right;">Page 2108</p> <p>1 been admitted. 2 So I would rather give the mess of exhibits that 3 I have back to counsel so that I'm not responsible for 4 what I wasn't here for. And it's kind of a mess. So I 5 would rather start clean. 6 And can we take up this issue maybe tomorrow at 7 some point and go through and maybe admit everything so 8 it's clean for the record? 9 THE COURT: So I don't know what different 10 people did. We had talked about doing that by written 11 stipulation. 12 THE CLERK: But counsel have not. It hasn't 13 been done. 14 MR. ROBINSON: One of the problems for us is, 15 when they've been offered, usually what happens is the 16 Court accepts them. And then, frankly, the problem with 17 signing off on them, I mean, what if one side says, well, 18 no, I'm not going to sign off? 19 THE CLERK: We've taken care of that issue. In 20 speaking to your representatives, what we felt was just 21 is everything that is marked for identification is listed 22 as marked. What you all agreed to stipulate to admit is 23 one section, and what there is a problem and there may be 24 an issue to is another list in the same stipulation. 25 So if that is done correctly, it can go smooth 26 and we can have the attorneys give me what is stipulated 27 to be admitted so this way we have it ready for the 28 jurors.</p>	<p style="text-align: right;">Page 2110</p> <p>1 THE CLERK: You know what? If you guys want to 2 turn in those lists and then I'll go through during my 3 leisure and -- 4 MR. ROBINSON: The last two days I don't think 5 we have, but I think up to that point we did. 6 THE CLERK: So I can go through, and if I can 7 have a stipulation of each day, this way I can pull out 8 what's been admitted so I can at least have that ready 9 for the jury. 10 MS. ZUKIN: All right. But we'd request that 11 the exhibits stay here. 12 THE CLERK: I'll keep them. 13 MS. ZUKIN: And we'll provide you with lists. 14 THE CLERK: Yes. And then we can clarify, at 15 least, and we can have a stack of admitted and a stack of 16 just identified. 17 MS. ZUKIN: Yes. Thank you. 18 THE COURT: We can tell you from experience that 19 this system actually works. 20 THE CLERK: Last time we had a lot of exhibits 21 on a big construction defect case, and I had the exhibits 22 in to the jury, with help, labeled and everything within 23 no time at all. I mean, almost simultaneously after they 24 went. It was, like, not even an hour and they had all my 25 exhibits, everything was admitted. And they had a lot of 26 exhibits. 27 MS. ZUKIN: So we'll provide you with the lists 28 and a stipulation.</p>

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<p style="text-align: right;">Page 2111</p> <p>1 THE CLERK: And on a daily basis, what they were 2 doing, whatever was admitted, instead of giving me my 3 clerk's binder, what they were doing was they had my 4 clerk's binder, and they were pulling the exhibits from 5 there as they were admitted, stipulated to be admitted. 6 If there was no issue with it, they were giving 7 them to me the next day and saying these were the ones 8 that were admitted and they would give me the stipulation 9 with it. And it just worked, because I'd keep them. And 10 at the end, I just signed them off and gave them to the 11 jury. And it just worked wonderfully. 12 THE COURT: Thank you. Off the record. 13 (A discussion is held off the record.) 14 (Whereupon the matter adjourned at 4:37 P.M. 15 to be resumed on August 4, 2017, at 9:30 A.M.) 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	
<p>1 SUPERIOR COURT OF THE STATE OF CALIFORNIA 2 FOR THE COUNTY OF LOS ANGELES 3 4 DEPARTMENT 307 HON. MAREN E. NELSON, JUDGE 5 6 COORDINATION PROCEEDING,) 7 SPECIAL TITLE (RULE 3.55)) 8) JCCP NO. 4872 9) 10 JOHNSON & JOHNSON TALCUM) REPORTER'S CERTIFICATE 11 POWDER CASES.) 12) 13 14 I, CAROLYN GREGOR, CSR 2351, pro tem reporter of 15 the Superior Court of the State of California, for the 16 County of Los Angeles, do hereby certify that the 17 foregoing pages, 2021-2111, comprise a full, true and 18 correct transcript of the proceedings and testimony taken 19 in the above-entitled cause on August 3, 2017. 20 21 Dated this 3rd day of August, 2017. 22 23 24 25 26 27 CAROLYN GREGOR, CSR 2351 28 OFFICIAL PRO TEMPORE REPORTER</p>	

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